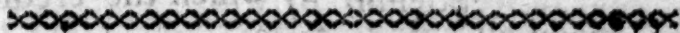


OBSERVATIONS
CONCERNING THE
DISTINCTION OF RANKS
IN
SOCIETY.



OBSE RVATIONS

CONCERNING THE

DISTINCTION OF RANKS

SOCIETY

UNDER THE

I. Of the Rank and Condition of Women in different Ages

II. Of the Distinction and Authority of a Father over his Children

III. Of the Authority of a Master over his Servants

BY JOHN MILLAR, ESQ.

PROFESSOR OF LAW IN THE UNIVERSITY OF GLASGOW

THE SECOND EDITION, CORRECTED

LONDON

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OPPOSITE ST. MARTIN'S CHURCH

MDCCLXXXII

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OBSERVATIONS

CONCERNING THE

DISTINCTION OF RANKS

I N

S O C I E T Y.

UNDER THE FOLLOWING HEADS:

- | | | |
|--|--|--|
| I. Of the Rank and Condition of Women in different Ages. | | Chief over the Members of a Tribe or Village. |
| II. Of the Jurisdiction and Authority of a Father over his Children. | | IV. Of the Power of a Sovereign over an extensive Society. |
| III. Of the Authority of a | | V. Of the Authority of a Master over his Servants. |

BY JOHN MILLAR, ESQ.
PROFESSOR OF LAW IN THE UNIVERSITY OF GLASGOW.

THE SECOND EDITION, GREATLY ENLARGED.

L O N D O N :
PRINTED FOR J. MURRAY, N^o 32, FLEET-STREET,
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M. DCC. LXXIII.

12



P R E F A C E.

THOSE who have examined the manners and customs of nations have had chiefly two objects in view. By observing the systems of law established in different parts of the world, and by remarking the consequences with which they are attended, men have endeavoured to reap advantage from the experience of others, and to make a selection of those institutions and modes of government which appear the most worthy of being adopted.

To investigate the causes of different usages, hath also been esteemed an useful as well as an entertaining speculation. When we contemplate the amazing diversity in the manners of different countries, and even of the same country at different periods; when we survey the distinctions of national characters, and the singular customs that have prevailed; we are led to discover the various dispositions and sentiments with which man is endowed, the various powers and faculties which he is capable of exerting. When at the same time we consider how much the character of individuals is influenced by their education, their professions, and their peculiar circumstances, we are enabled, in some measure, to account for the behaviour of different nations. From the situation of a
people

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people in different ages and countries, they are presented with particular views of expediency ; they form peculiar maxims, and are induced to cultivate and acquire a variety of talents and habits. Man is every where the same ; and we must necessarily conclude, that the untutored Indian and the civilized European have acted upon the same principles.

THUS, by real experiments, not by abstracted metaphysical theories, human nature is unfolded ; the general laws of our constitution are laid open ; and history is rendered subservient to moral philosophy and jurisprudence. The manners and customs of a people may be regarded as the most authentic record of their opinions, concerning what is right or wrong, what is praiseworthy

worthy or blameable, what is expedient or hurtful. In perusing such records, however, the utmost caution is necessary; and we must carefully attend to the circumstances in which they were framed, in order to ascertain the evidence which they afford, or to discern the conclusions that may be drawn from them. As the regulations of every country may have their peculiar advantages, so they are commonly tinged with all the prejudices and erroneous judgments of the inhabitants. It is therefore by a comparison only of the ideas and the practice of different nations, that we can arrive at the knowledge of those rules of conduct, which, independent of all positive institutions, are consistent with propriety, and agreeable to the sense of justice.

W H E N

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WHEN these enquiries are properly conducted, they have likewise a tendency to restrain that wanton spirit of innovation which men are too apt to indulge in their political reasonings. To know the laws already established, to discern the causes from which they have arisen, and the means by which they were introduced; this preliminary step is essentially requisite, in order to determine upon what occasions they ought to be altered or abolished. The institutions of a country, how imperfect soever and defective they may seem, are commonly suited to the state of the people by whom they have been embraced; and therefore, in most cases, they are only susceptible of those gentle improvements, which proceed from a gradual reformation of the manners, and are accompanied with a cor-

respondent change in the condition of society. In every system of law or government, the different parts have an intimate connection with each other. As it is dangerous to tamper with the machine, unless we are previously acquainted with the several wheels and springs of which it is composed ; so there is reason to fear, that the violent alteration of any single part may destroy the regularity of its movements, and produce the utmost disorder and confusion.

THE following observations are intended to illustrate the natural history of mankind in several important articles. This is attempted, by pointing out the more obvious and common improvements in the state of society, and by showing the influence of these upon

upon the manners, the laws, and the government of a people.

IN the first chapter the author has considered the ideas entertained in different ages, with respect to the rank and condition of the two sexes. From these, the chief regulations concerning marriage, and the rights of the husband and wife, are evidently derived.

He has endeavoured, first of all, to show the effects of poverty and barbarism, with regard to the passions of sex, with regard to the general occupations of a people, and with regard to the degree of consideration which is paid to the women as members of society.

He has next proceeded to take notice of the refinements in the state of our passions, arising from the acquisition of wealth; first in moveables, by the invention of pasturing cattle; and afterwards in land, by the application of mankind to the cultivation of the earth.

In the third place, he has examined the alterations produced, in the condition of the fair sex, by the improvement of the more necessary arts and manufactures, and by the influence of civilization and regular government,

TO LASTLY, he has attempted to delineate the changes, in this respect, introduced by the cultivation of the elegant arts, and by the progress of a people in opulence and luxury.

AFTER

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AFTER the rights of the husband and wife, those that subsist between parents and their children come next to be examined. In the second chapter, some observations are made, concerning the authority which, in the rudest periods, a father is accustomed to exercise over his children. The limitations, upon this branch of jurisdiction, arising from the improvements of a later age, are afterwards considered.

HAVING reviewed the primitive government of a family, the author has proceeded, in the third chapter, to enquire into the state of a tribe or village, composed of several families; to point out the origin of a chief, who is raised to the head of their society; and the various branches of authority assumed

x P R E F A C E.

assumed by this early magistrate, according to the different species of property which the people have had an opportunity of acquiring.

By the union of several tribes, a larger society is formed, requiring a greater variety of regulations, for securing the rights of individuals, and for maintaining the public tranquillity. This makes the subject of the fourth chapter; which may be divided into two parts:

THE first relates to the political constitution, derived from a simple confederacy among these independent communities. As in the different governments, produced by an association of this sort, we every where observe a great degree of uniformity; we may also
dis-

discover certain peculiar circumstances, by which the constitution of some states is particularly distinguished. One of the most remarkable of these is the establishment of the feudal law; which makes so great a figure in the history of Europe, and has been the subject of so much investigation and controversy. Concerning the origin of the feudal institutions, and concerning the time and manner in which they were introduced, the author has ventured to deliver an opinion, which has the appearance of reconciling the different facts, collected by antiquaries and lawyers in support of their various and opposite conjectures.

THE second part of that chapter contains remarks upon the alterations in the police and government of a coun-

try, arising from the progress of its inhabitants, in manufactures and commerce, and in that refinement of manners which is the natural consequence of affluence and security.

THE consideration of the distinctions of rank, among the free inhabitants of a country, is followed by an enquiry into the state of persons of inferior condition, who, in order to procure subsistence, are obliged to labour in the service of others, and who form the great body of the people. In prosecuting this enquiry, the author has first considered the state of servants, in the primitive ages of the world. He has next attempted to point out those variations in their condition, which have proceeded from the usual improvements of society, in law and government ;

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vernment; and lastly, to give an account of that singular revolution, by which the laws of Europe are, in this respect, so eminently distinguished.

UPON the whole it has been the author's design to explain the causes of various manners and customs, rather than to enter into any formal discussion concerning the political advantages or disadvantages of which they have been productive; and it appeared unnecessary to give a separate detail of the laws of any one country, or to take notice of particular institutions, further than as they contributed to show the natural progress of human society.

WITH regard to the facts made use of in the following discourse, the reader,

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reader, who is conversant in history, will readily perceive the difficulty of obtaining proper materials for speculations of this nature. Historians of reputation have commonly overlooked the transactions of early ages, as not deserving to be remembered; and even in the history of later and more cultivated periods, they have been more solicitous to give an exact account of battles, and public negotiations, than of the interior police and government of a country. Our information, therefore, with regard to the state of mankind in the more uncivilized parts of the world, is chiefly derived from the relations of travellers, whose character and situation in life neither set them above the suspicion of being easily deceived, nor of endeavouring to misrepresent the facts which they have

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have related. From the number, however, and the variety of those relations, they acquire, in many cases, a degree of authority, upon which we may depend with security, and to which the narration of any single person, how respectable soever, can have no pretension. When illiterate men, ignorant of the writings of each other, and who, unless upon religious subjects, had no speculative systems to warp their opinions, have, in distant ages and countries, described the manners of people in similar circumstances, the reader has an opportunity of comparing their several descriptions, and from their agreement or disagreement is enabled to ascertain the credit that is due to them. According to this method of judging, which throws the veracity of the relater very much out
of

of the question, we may be convinced of the truth of extraordinary facts, as well as of those that are more agreeable to our own experience. It may even be remarked, that in proportion to the singularity of any event, it is the more improbable that different persons, who design to impose upon the world, but who have no concert with each other, should agree in relating it. When to all this, we are able to add the reasons of those particular customs which have been uniformly reported, the evidence becomes as complete as the nature of the thing will admit. We cannot refuse our assent to such evidence, without falling into a degree of scepticism, by which the credibility of all historical testimony would be in a great measure destroyed. This observation, it is hoped, will serve as an
apology

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apology for the multiplicity of facts that are sometimes stated in confirmation of the following observations. At the same time, from an apprehension of being tedious, the author has, on other occasions, selected only a few, from a greater number, to the same purpose, that might easily have been procured.

b

N. B.

N. B. In this edition the chapters are
divided into sections ; which, it was
thought, might render the arrange-
ment more obvious to the reader.

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ERRATA.

Page 4, line 5, from the bottom, *for part read parts.*

30, Note l. 3, from the bottom, *for filius read filis.*

32, Note l. 4, from bottom, *for Vally read Velly.*

39, Note l. 6, from bottom, *for cavari read caveri.*

136, l. 3, *for paivilege read priviledge.*

157, Note l. 2, from bottom, *for soufflats read soufflets.*

167, l. 7, *for land read landed.*

202, Note l. 15, from bottom, *for publicè read public.*

278, Note l. 6, from bottom, *for siculi read sicuti.*

310, Note l. 1, from the bottom, *after the word known add to the field Negroes.*

311, Note l. 1, from the top, *for Instead of a flail the Negroes read, Instead of a flail, they*

OBSERVATIONS

CONCERNING THE DISTINCTION OF RANKS IN SOCIETY.

CHAP. I.

Of the rank and condition of women in
different ages.

SECTION I.

*The effects of poverty and barbarism, with regard
to the condition of women.*

OF all our passions, it would seem, that
those which unite the sexes are most
easily affected by the peculiar cir-
cumstances in which we are placed, and most
liable to be influenced by the power of habit
and education. Upon this account they ex-
hibit the most wonderful variety of appear-

A nces,

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ances, and have produced the greatest diversity of manners and customs, in different ages and countries.

AMONG early and rude nations, we can expect but little improvement, with regard to these passions. A savage who earns his food by hunting and fishing, or by gathering the spontaneous fruits of the earth, is incapable of attaining any considerable refinement in his pleasures. He finds so much difficulty and is exposed to so many hardships, in procuring mere necessaries, that he has no leisure nor encouragement to aim at the luxuries and conveniencies of life. His wants are few, and in proportion to the narrowness of his circumstances. His great object is to be able to satisfy his hunger; and, after the utmost exertions of labour and activity, to enjoy the agreeable relief of idleness and repose. He has no time for cultivating a correspondence with the other sex, nor for attending to those enjoyments which result from it; and his desires being neither cherished by affluence, nor inflamed by indulgence, are allowed to remain in that moderate state which renders

RANKS IN SOCIETY. 3

them barely sufficient to answer the purposes of nature, in the continuation of the species.

THE facility with which he may commonly gratify these appetites is another circumstance by which his situation is peculiarly distinguished. In the most rude and barbarous ages, there are no differences of rank to interrupt the free intercourse of the sexes. There are no distinctions among individuals, but those which arise from their age and experience, from their strength, courage, and other personal accomplishments. As the members of different families are all nearly upon a level, so they usually live and converse together with the most perfect freedom, and give way to their mutual desires without the least hesitation or reluctance. They are unacquainted with those refinements which create a strong preference of particular objects, and with those artificial rules of decency and decorum which might lay a restraint upon their conduct.

It cannot be supposed therefore that the passions of sex will ever arise to any considerable height in the breast of a savage. He must

have little regard for pleasures which he can purchase at so easy a rate. He meets with no difficulties nor disappointments to enhance the value of his enjoyment, or to rouse and animate him in the pursuit of it. He arrives at the end of his wishes, before they have sufficiently occupied his thoughts, or engaged him in those delightful anticipations of happiness which the imagination is apt to display in the most flattering colours. He is a stranger to those eager hopes, those anxious fears, which agitate the mind of the lover; and which, by the conflict they produce, have a tendency to enliven his feelings, and to increase the force of his prevailing inclinations.

THIS observation is agreeable to the history of savages in all different part of the world; and is besides confirmed by those vestiges of ancient manners which are often discovered among nations considerably advanced in civilization and refinement*.

It

* "Sera juvenum Venus," says Tacitus of the Germans, "coque inexhausta pubertas, nec virgines festinantur."

It is true, that some sort of marriage, or permanent union between persons of different sexes, has been commonly established, even in the early periods of society. But when we examine the nature of this primitive alliance, it appears to have been derived from motives, almost entirely independent of those passions which we are at present considering. When a child has been produced, by the accidental correspondence of his parents, it is to be expected that, from the influence of natural affection, they will be excited to assist one another in making some provision for his maintenance. For this purpose they are led to take up their residence together, that they may act in concert with each other, and unite their

"tur. Ergo septa pudicitia agunt, nullis spectaculorum
 "illicibris, nullis conviviorum irritationibus corruptæ."
 Tacit. de mor. Germ. § 19, 20,

The same circumstance is mentioned by Cæsar concerning the character of the antient Gauls. "Qui diutissime
 "impuberes permanserunt, maximam inter suos ferunt
 "laudem: hoc ali staturam, ali hoc vires, nervosque
 "confirmari putant. Intra annum vero vicesimum seminae
 "notitiam habuisse, in turpissimis habent rebus." Cæs.
 de bell. Gall. lib. 6. §. 21.

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labour and industry in the preservation and care of their offspring.

AMONG inferior animals we may discern the influence of the same principle, in forming an association between individuals of different sexes. The connection however, in that case, is of short duration; because the young animal is soon in a condition to provide for its own subsistence. But the long culture which is necessary in rearing the human species may commonly afford to the parents a second pledge of their commerce, before their assistance can be withdrawn from the former. Their attention therefore is extended from one object to another, while the mother is capable of child-bearing; and their union is continued by the same causes which first gave rise to it. Even after this period, they will naturally be disposed to remain in a society to which they have been so long accustomed: more especially as by living at the head of a numerous family they enjoy a degree of ease, respect, and security, of which they would otherwise be deprived, and have reason, in their old age, to expect the assistance and protection

tection of their posterity, under all those diseases and infirmities by which they are rendered incapable of providing for themselves*.

THESE were in all probability the first inducements to marriage among the rude and barbarous inhabitants of the earth. As it appears to have taken its origin from the accidental and unforeseen exertions of parental affection, we may suppose that it would at first be commenced without any previous contract between the parties, concerning the terms or duration of their correspondence. Thus, among the Romans, it would seem that the most ancient marriage was that which is said to have been formed merely *by use*; that is, where the parties, without any previous bargain, had constantly lived together for the space of a year; a period which, in the ordi-

* It seems unnecessary to observe, that what is here said with regard to marriage, together with many other Remarks which follow, concerning the manners of early nations, can only be applied to those people who had lost all knowledge of the original institutions, which, as the sacred scriptures inform us, were communicated to mankind by an extraordinary revelation from heaven.

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nary course of things, was sufficient to involve them in the care of a family*.

TIME and experience gradually improved this connection; and discovered the many ad-

* Cicero pro Flacco, Heinec. antiq. Roman.

Dr. Cook, in his Travels lately published, mentions a similar custom among the Kalmucks, or Tartars who inhabit the country between the rivers Don and Volga. "Their ceremony of marriage," says he, "is reasonable, though not agreeable to the customs of any other country I know. It is thus: a young pair, agreed betwixt themselves, retire and live as man and wife for one year. If the young woman produceth a child in the space of one year, the marriage is completed and lawful; but if not, they either make another year's trial, or part: nor is the woman in the least reflected upon; she is greedily picked up for another trial by others, as if she were a young virgin," Travels through the Russian Empire and Tartary, by John Cook, M. D. vol. i. chap. 56.

In the account of a late voyage round the world, in his Majesty's ship *Endeavour*, it is said, that the inhabitants of Otahitee, or George's Island, "are accustomed to pursue incontinent gratifications wherever inclination leads, until a woman becomes pregnant, when the father, by long-established custom, is obliged to marry her." Among those people therefore it would seem that a regard to the offspring is still the only motive to marriage.

vantages

vantages of which it is productive. The consideration of those advantages, together with the influence of fashion and example, contributed to promote its universal establishment. The anxiety of parties, or of their relations, to avoid those disputes and inconveniencies with which it was frequently attended, made them endeavour, by an express stipulation, to settle the conditions of their union ; and produced a solemn and formal celebration of marriage. The utility of this contract, as it makes a regular provision for multiplying the inhabitants of a country, gave rise to a variety of publick regulations for promoting the institution in general ; for directing its particular forms ; and for discouraging the vague and irregular commerce of the sexes.

THE marriages, however, of rude people, according to all accounts, are usually contracted without any previous attachment between the parties, and with little regard to the gratification of their mutual passions. A savage is seldom or never determined to marry from the particular inclinations of sex ; but commonly enters into that connection

2

when

when he arrives at an age, and finds himself in circumstances, which render the acquisition of a family expedient or necessary, in order to his comfortable subsistence. He discovers no preference of any particular woman; but leaves it to his parents or other relations to make choice of a person whom it is thought proper that he should marry. He is not even at the trouble of paying her a visit; but allows them to begin and finish the bargain, without concerning himself at all in the matter. If his proposals are rejected, he hears it without the least disturbance; or if he meets with a favourable reception, he is equally unmoved, and the marriage is completed, on both sides, with the most perfect indifference*.

FROM

* Lafitau, mœurs des sauvages Américains, 4to. tom. 1. pag. 564. Histoire generale des voyages, tom. 4. liv. 7. cap. 13. § 1. Ibid. tom. 6. liv. 14. cap. 3. § 4. Ibid. tom. 6. liv. 14. cap. 3. § 4. Travels of the Jesuits, vol. 2. p. 446.

The learned Father Lafitau takes notice of a particular custom, among the savages of America, which shows the indifference with which their marriages are usually contracted,

FROM the extreme insensibility which is so observable in the character of all savage nations, it is no wonder they should entertain the grossest ideas concerning those female virtues which, in a polished nation, are supposed to constitute the honour and dignity of the sex.

THE Indians of America think it no stain upon a woman's character, that she has violated the laws of chastity before marriage; nay, if we can give credit to travellers who have visited that country, a trespass of this

tracted, and marks in the strongest manner the inattention of that people to the gratification of their passions.
 " Il est de l'ancien usage, parmi la plupart des nations
 " sauvages, de passer la première année, après le mariage
 " contracté, sans le consommer. La proposition avant ce
 " tems-là, seroit une insulte faite à l'épouse, qui lui se-
 " roit comprendre, qu'on auroit recherché son alliance,
 " moins par estime pour elle, que par brutalité. Et
 " quoique les époux passent la nuit ensemble, c'est sans
 " prejudice de cet ancien usage; les parens de l'épouse
 " y veillent attentivement de leur part, et ils ont soin
 " d'entretenir un grand feu devant leur natte, qui éclaire
 " continuellement leur conduite, et qui puisse servir de
 " garand, qu'il ne se passe rien contre l'ordre prescrit."
 Mœurs des sauvages Amer. tom. 1. p. 564.

kind

kind is a circumstance by which a woman is recommended to a husband, who is apt to value her the more, from the consideration that she has been valued by others ; and on the other hand, thinks that he has sufficient ground for putting her away, when he has reason to suspect that she has been overlooked*.

YOUNG women among the Lydians were not permitted to marry, till after they had earned their dowries by prostitution†.

AMONG the ancient Babylonians, all the people of lower rank are said to have prostituted their daughters for a living ; and it appears that even persons of superior condition were disposed to regard the virtue of chastity as of small importance, since they permitted a general regulation, that every woman should, once in her life, submit to a publick prostitution in the temple of Ve-

* Ulloa's voyage to South America.

† Herodot. lib. 1.

nus *. A religious ceremony of a like nature is said to have been observed in some parts of the island of Cyprus †.

THE infidelity of a married woman is naturally viewed in a different light ; and, upon account of the consequences with which it is attended, is often regarded as an offence which deserves to be severely punished. To introduce a spurious offspring into the family ; to form a connection with a stranger, by which the wife is diverted from her proper employments and duties, and by which she may be influenced to embezzle the goods committed to her charge ; these are circumstances which, even in a rude period, are apt to awaken the jealousy of the husband, and to excite his indignation and resentment. There are nations, however, who have disregarded even these considerations, and who have considered

* Strabo, lib. 16.—See also Herodotus, lib. i. who describes the form of this wonderful institution with his usual simplicity.

† Herodot. *ibid.*

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the strict preservation of conjugal fidelity as a matter of no consequence.

AMONG the ancient Massagetæ, it was usual for persons who resided in the same part of the country to live in common with the wives of each other *. The same custom is said, by Diodorus Siculus, to have taken place among the ancient Troglodites, and the Ichthyophagi, inhabiting the coast of the Red Sea †.

AN author of much more credit takes notice of this practice among the ancient inhabitants of Britain. "*Uxores habent deni duo-denique inter se communes, et maxime fratres cum fratribus, parentesque cum liberis: sed si qui sunt ex his nati, eorum habentur liberi, quo primum virgo quæque deducta est ‡.*"

THE custom of lending a wife to a friend, that he might have children by her, appears to have been universal among the ancient

* Herodot. *ibid.*

† Diod. Sicul. *hist. lib. 1.*

‡ Cæsar. *de bell. Gall. lib. 5. § 14.*

Greeks and Romans; and, even when these nations had become wealthy and civilized, was openly countenanced by persons of the highest rank and character. It was recommended, in a particular manner, to the Spartans, by the celebrated institutions of Lycurgus*.

IN the country of Kamtschatka, there are several tribes of savages, who esteem it an ordinary mark of politeness, when they entertain a friend, to offer him the enjoyment of their wife or their daughter; and whoever refuses a civility of this kind, to his guest, is supposed to have intended an affront; and his behaviour is resented accordingly. In Louisiana, upon the coast of Guiney, in several parts of the East Indies, in Pegu, Siam, Cochinchina, and Cambodia, the inhabitants are, in like manner, accustomed, for a small present, to make an offer of their women to all strangers who have occasion to visit the country†.

* Vide Lucan. *Pharsalia*.—Plutarch. in *vita* Lycurg.

† History of Kamtschatka.—*Nouveaux voyages aux Indes Orientales*, tom. 2. p. 17.—Dampier's travels.

THE little attention which is paid by such people to the female point of honour, together with that constitutional sobriety which at the same time they are apt to acquire from their manner of life, is productive of the utmost simplicity in the behaviour of the two sexes. Conscious of no excess, in regard to that instinct which nature hath bestowed upon them, they have no reason to be ashamed of its ordinary gratifications; and they affect no disguise, as to this particular, either in their words or in their actions. Their extreme innocence prevents them from having recourse to that veil which modesty hath introduced among a polished people, in order to conceal from the publick eye those inclinations and thoughts which it is reckoned indecent to express.

THE effect of this circumstance is finely touched by Milton, in describing the behaviour of persons unacquainted with guilt.

“ So passed they naked on, nor shunned the sight
“ Of God or Angel, for they thought no ill *.”

* Paradise Lost, b. 8.

“Cujus rei,” saith Cæsar of the Germans,
 “nulla est occultatio, quod et promiscue in
 “fluminibus perluuntur, et pellibus, aut
 “parvis renonum tegumentis utuntur, magna
 “corporis parte nuda †.”

When Columbus discovered the new world, he found that the male part of the inhabitants made use of a garment; but the women, who might be supposed to possess a greater share of delicacy and reserve, had not the least covering *. The manners of rude nations are uniformly distinguished by this plainness and freedom, which runs through the whole of their intercourse, and is usually carried to a greater height in proportion as they are farther removed from luxury and intemperance ‡.

† Cæsar. de bell. Gall. lib. 6. §. 21.

* Columbus's voyages.

‡ See the account which is given by Kolben of the manners of the Hottentots.—Of the inhabitants of Pegu. Mod. Univer. Hist. vol. 7.—Of the ancient Massagetae, Herodot. lib. 1.

IN the *Odyssey*, when Telemachus arrives at Pylos, he is stripped naked, bathed, and anointed by the king's daughter.

“ While these officious tend the rites divine,
 “ The last fair branch of the Nestorian line,
 “ Sweet Polycaeste, took the pleasing toil
 “ To bathe the prince and pour the fragrant oil.
 “ O'er his fair limbs a flowery vest he threw,
 “ And issued like a god, to mortal view*.

A REMARKABLE instance of this kind occurs in the behaviour of Ruth, to Boaz her kinsman.

“ AND when Boaz had eaten and drunk,
 “ and his heart was merry, he went to lie
 “ down at the end of the heap of corn: and
 “ she came softly, and uncovered his feet and
 “ laid her down.

“ AND it came to pass at midnight, that
 “ the man was afraid, and turned himself:
 “ and behold a woman lay at his feet.

* Pope's translation of the *Odyssey*, book 4. l. 58.

“ AND

"AND he said, Who art thou? And she answered, I am Ruth thine handmaid: spread therefore thy skirt over thine handmaid, for thou art a near kinsman *."

It cannot be doubted that the influence of such manners is extremely unfavourable to the rank and dignity of the women; who are in a great measure deprived of all that consideration and respect which in a refined age they are accustomed to derive from the passion between the sexes. Neither is it possible for them to procure much esteem upon account of those talents, which they are capable of acquiring, or upon account of their usefulness in those occupations which they have any occasion to exercise.

AMONG a people who are almost continually employed in war or in hunting, and who are unacquainted with arts and manufactures, strength, courage, and military skill are looked upon as the only valuable accomplishments. When they return from an expedi-

* Ruth, chap. iii. ver. 7, 8, 9.

tion, every man is respected in proportion to the actions which he hath performed; and that person is most distinguished at the feast who hath most signalized himself in the field. The various incidents of the battle, or of the chase, occupy their thoughts, and make the principal subject of all their conversation. Those who are old take pleasure in relating the deeds of former times by which they have been distinguished; and they are listened to by the young with admiration and reverence. The son, when he goes out to battle, is armed with the sword of his fathers; and when he calls to mind the renown which they have acquired, is excited to a noble emulation of their achievements. Military glory is, in a word, the sole object of ambition, and the only source of rank and dignity.

THE inferiority of the women, in this respect, may be easily imagined. From their situation, indeed, they naturally acquire a degree of firmness and intrepidity which appears surprising to those who are only acquainted with the manners of polished nations. It is usual for them to accompany the men in their expeditions.

expeditions either for hunting or for war; and it sometimes happens that individuals are led, from the general spirit of the times, to engage in battle, and even to gain a reputation by their exploits. From particular instances of this, exaggerated by the wonder and astonishment which they produced, have probably arisen those fictitious accounts of Amazons, in different countries, who are said to have distinguished themselves by their military prowess. But whatever may have happened in some extraordinary cases, we may venture to conclude that the female character is by no means suited to those martial employments; and that, in barbarous as well as in refined periods, the women are, for the most part, incapable of vying with the other sex in point of strength and courage. Their attention therefore is generally limited to an humbler province. It falls upon them to manage all the inferior concerns of the household; and to perform those domestic offices which the several circumstances of the family may require: offices which, however useful, yet requiring little dexterity or skill, and being attended with no exertion of difficult talents, are na-

turally regarded as mean and servile, and unworthy the care and attention of those who serve in war, and are respected upon account of their military accomplishments.

FROM these observations we may form an idea of the state and condition of the women in early ages. Having little attention paid them, either upon account of those pleasures to which they are subservient, or of those occupations which they are qualified to exercise, they are degraded below the other sex, and reduced under that authority which the strong acquire over the weak: an authority which, in early periods, being subject to no limitation from the government, is exerted with a degree of harshness and severity suited to the dispositions of the people.

WE accordingly find that, in those periods, the women of a family are usually treated as the servants or slaves of the men *. Nothing can exceed the dependence and subjection in

* *Εν δὲ τοῖς βαρβάροις τὸ θῆλυ καὶ δούλον τὴν αὐτὴν ἔχει τάξιν.* Aristot. Polit. lib. 1. cap. 2,

which

which they are kept, nor the toil and drudgery which they are obliged to undergo. They are forced to labour without intermission in digging roots, in drawing water, in carrying wood, in milking the cattle, in dressing the victuals, in rearing the children, and in those other kinds of work which their situation has taught them to perform. The husband, when he is not engaged in some warlike exercise, indulges himself in idleness, and devolves upon his wife the whole burden of his domestic affairs. He disdains to assist her in any of these servile employments: she sleeps in a different bed; and is seldom permitted to have any conversation or correspondence with him*.

AMONG the negroes upon the slave-coast the wife is never allowed to appear before the husband, nor to receive any thing from his hands, without putting herself into a kneeling posture †.

* See Kolben's voyage to the Cape of Good Hope.—*Histoire generale des voyages*, liv. 14. chap. 3. § 4. Ibid. liv. 7. chap. 13. § 1.—Sale's voyage to North America.

† *Histoire generale des voyages*, tom. 5. liv. 10. chap. 3.

In the empire of Congo, and among the greater part of those nations which inhabit the southern coast of Africa, the women of a family are seldom allowed to eat with the men. The husband sits alone at table, and the wife commonly stands at his back to guard him from the flies, to serve him with his victuals, or to furnish him with his pipe and his tobacco. After he has finished his meal, she is allowed to eat what remains; but without sitting down, which it seems would be inconsistent with the inferiority and submission that is thought suitable to her sex*. When a Hottentot and his wife have come into the service of an European, and are entertained under the same roof, the master is under a necessity of assigning to each of them a distinct portion of victuals; which, out of regard to the general usage of their country, they always devour at a distance from one another†.

* *Histoire generale des voyages*, tom. 6. liv. 13. chap. 3. § 2. Ibid. tom. 4. liv. 7. chap. 13. § 1.

† Kolben's voyage to the Cape of Good Hope, chap. 15. § 6.

IN the late account which has been given by Commodore Byron of the Indians of South America, we are told, that “ the men exercise a most despotic authority over their wives, whom they consider in the same view they do any other part of their property; and dispose of them accordingly: even their common treatment of them is cruel; for though the toil and hazard of procuring food lies entirely upon the women, yet they are not suffered to touch any part of it till the husband is satisfied; and then he assigns them their portion, which is generally very scanty, and such as he has not a stomach for himself.” The same author informs us, that he has observed a like arbitrary behaviour among many other nations of savages with whom he has since become acquainted *.

FROM the servile condition of the fair sex, in barbarous countries, they are rendered in a great measure incapable of property, and are

* Byron's Narrative.

supposed to have no share in the estate of that particular family in which they reside. Whatever has been acquired by their labour is under the sole administration and disposal of those male relations and friends, by whom they are protected, and from whom they receive a precarious subsistence. Upon the death of a proprietor, his estate is continued in the possession of his sons, or transmitted to his other male relations; and his daughters are so far from being entitled to a share of the succession, that they are even considered as a part of the inheritance, which the heir is at liberty to manage according to his pleasure.

At the Cape of Good Hope, in the kingdom of Benin, and in general upon the whole southern and western coast of Africa, no female is ever admitted to the succession of any estate, either real or personal*.

The same custom is said to be observed among the Tartars; and there is some reason

* See Kolben's voyage.—Modern Universal History, vol. 16. Ibid. vol. 17.—Hist. gener. des voy. tom. 5. 6.

to believe that it was formerly established among all the inhabitants of Chaldea and Arabia*,

FROM the famous decision of this point related by Moses it appears, that in his time the succession of females had been without a precedent; and by his appointment they were only permitted to inherit upon a failure of males of the same degree.

"Then came the daughters of Zelophe-
"had—and they stood before Moses and be-
"fore Eleazar the priest, and before the prin-
"ces, and all the congregation, by the door
"of the tabernacle of the congregation, say-
"ing,

"OUR father died in the wilderness, and
"he was not in the company of them that
"gathered themselves together against the
"Lord in the company of Korah; but died
"in his own sin, and had no sons.

* Histoire generale des voyages, tom. 9. liv. 4. chap. 2.
§ 6, p. 318.—Vide Perizon de leg. vocon.

“WHY should the name of our father be
 done away from among his family, because
 he hath no son? Give unto us therefore a
 possession among the brethren of our father.

“AND Moses brought their cause before the
 Lord.

“AND the Lord spake unto Moses, saying,

“THE daughters of Zelophehad speak right;
 thou shalt surely give them a possession of
 an inheritance among their father’s bre-
 thren, and thou shalt cause the inheritance
 of their father to pass unto them.

“AND thou shalt speak unto the children of
 Israel, saying, If a man die, and have no
 son, then ye shall cause his inheritance to
 pass unto his daughter †.”

AMONG all those German nations which
 over-ran and subdued the different provinces

* Numbers, chap. xxvii. ver. 1, 2, 3, 4, 5, 6, 7, 8.

of the Roman empire, the same notions were entertained concerning the inferiority of the women, and the same rules of succession were naturally introduced. It is probable that, according to the original customs which prevailed among all these people, daughters, and all other female relations, were entirely excluded from the right of inheritance; but that afterwards, when the increase of opulence and luxury had raised them to higher consideration, they were admitted to succeed after the males of the same degree †.

In a country where the women are universally regarded as the slaves of the other sex, it is natural to expect that they should be bought and sold, like any other species of property. To marry a wife is there the same thing as to purchase a female servant, who is, under the husband, to have the chief direction and superintendence of the family.

Thus among all the savage nations, whether in Asia, Africa, or America, the wife is

† Tacit. de mor. German,

commonly bought by the husband from her father, or those other relations who have an authority over her ; and the conclusion of a bargain for this purpose, together with the payment of the price, has therefore become the most usual form or solemnity in the celebration of their marriages *.

* This practice obtains in the kingdom of Pegu. See Modern Univer. Hist. vol. 7.—In Siberia. See professor Gmelin's travels into Siberia, vol. 1. p. 29.—Among the Tartars. Hist. gener. des voy. tom. 9.—Among the negroes on the coast of Guiney. Ibid. tom. 5.—Among the Arabs. See D'Arvieux trav.

“ In Circassia no other dowry is given with a daughter
 “ than a few suits of rich cloaths, ornamented with jewels,
 “ and a few women: but the bridegroom is obliged to
 “ produce on the wedding-day such number of horses,
 “ dromedaries, cows, &c. as was agreed upon. If they
 “ have no such number of their own they make incursions
 “ upon their neighbours and carry off as many as they
 “ stand in need of, or lose their lives in the attempt,” Dr.
 Cook's travels through the Russian empire and Tartary,
 vol. 2. chap. 21.

“ Illud etiam præsentī lege placuit contineri, ut si mu-
 “ lier maritum habens sine filius hac luce transferit, mari-
 “ tus defunctæ uxoris pretium, quod pro illa datum fuerit,
 “ non requirat.” Leges Burgundior. tit. 14. l. 3.

THIS

THIS appears to be the real foundation of what is related by historians; that in some parts of the world it is usual for the husband to give a dowry to the wife or her relations, instead of the wife bringing along with her a dowry to the husband.

“*DOTEM non uxor marito, sed uxori maritus offert,*” is the expression of Tacitus, in describing the manners of the ancient German nations*.

WHEN Shechem wanted to marry the daughter of Jacob—“He said unto her father, and unto her brethren, Let me find grace in your eyes, and what ye shall say unto me I will give.

“Ask me never so much dowry and gift, and I will give according as ye shall say unto me: but give me the damsel to wife†.

* Tacit. de mor. German.

† Genesis, chap. xxxiv. ver. 11, 12.

WHEN David married the daughter of king Saul, he was obliged to pay a dowry of a very singular nature *.

THIS antient custom, that the husband should buy his wife from her relations, remains at present among the Chinese; who, notwithstanding their opulence, and their improvement in arts, are still so wonderfully tenacious of the usages introduced in a barbarous period †.

UPON the same principle, the husband is generally understood to have the power of

* 1 Samuel, chap. xviii. ver. 25.

† See P. Le Compte's Memoirs of China.

Sir Thomas Smith observes, that according to the old law of England, "The woman, at the church door, was given of her father, or some other man of the next of her kinne, into the hands of the husband; and he laid down *gold* and *silver* for her upon the book, as though he did buy her." (The commonwealth of England, b. 3. chap. 8.)—M. Vally, speaking of the ancient customs of the French with relation to marriage, says, "Le futur epoux devoit offrir une somme aux parens de la fille." Hist. de France, tom. i. p. 268.

selling

telling his wife, or of putting her away, whenever he thinks proper ||.

It may however be remarked, that this is a privilege which, from the manners of a rude people, he seldom has reason to exercise. The wife, who is the mother of his children, is generally the most proper person to be employed in the office of rearing and maintaining them. As she advances in years she is likely to advance in prudence and discretion; and the longer she has lived in the family, she is the more fit to be entrusted with the inspection and management of all its important concerns. Nothing but some extraordinary crime that she has committed will move the husband to put away so useful a servant, with whom he has long been acquainted, and whose labour, attention, and fidelity are commonly of more value than all the money she will bring in a market. Di-

|| THIS is the case in the Kingdom of Congo. *Mod. Univer. Hist.*—Upon the slave coast. *Hist. gener. des voy.*

voices are therefore rarely to be met with in the history of early nations.

BUT though the wife is not apt to incur the settled displeasure of her husband, which might lead him to banish her from the family, she may often experience the sudden and fatal effects of his anger and resentment. When unlimited power is committed to the hands of a savage, it cannot fail, upon many occasions, to be grossly abused. He looks upon her in the same light with his other domestic servants, and expects from her the same implicit obedience to his will. The least opposition kindles his resentment; and from the natural ferocity of his temper he is frequently excited to behave with a degree of brutality which, in some cases, may prove the unhappy occasion of her death.

AMONG the antient inhabitants of Gaul, the husband exercised the power of life and death over his wives, and treated them with all the severity of an absolute and tyrannical master. In that country, whenever a person of distinction was thought to have died a violent death,

his wives lay under the same suspicion of guilt with his other domestic servants; and in order to discover who had committed the crime, they were all subjected to the torture †.

BUT of all the different branches of power with which in a rude age the husband is usually invested, we meet with the fullest and most complete illustration in the ancient law of the Romans. Among that people a wife was originally considered as, in every respect, the slave of her husband †. She might be sold by him at pleasure, or she might be put to death by an arbitrary exertion of his authority. From the ceremonies which were used in the more solemn and regular celebration of marriage, it seems probable that, in

† “Viri in uxores, sicuti in liberos, vitæ necisque habent potestatem: et quum paterfamilias illustriore loco natus decessit, ejus propinqui conveniunt, et de morte, si res in suspicionem venit, de uxoribus in fervilem modum quæstionem habent.” Cæf. de bell. Gall. lib. 6, § 18.

† She was said “convenire in manum mariti,” and was precisely in the same condition with a “filiafamilias.”

early times, the wife was purchased with a real price from her relations ||. She was held incapable of having any estate of her own, and whatever she possessed at the time of her marriage became the absolute property of her husband ††.

|| The ceremonies of "coemptio."

†† Vide Heinec. antiq. Roman.

SECTION

SECTION II.

The influence acquired by the mother of a family, before marriage is completely established.

SUCH are the natural effects of poverty and barbarism, with respect to the passions of sex, and with regard to the rank and consideration which belongs to the women, as members of society. There is one circumstance, however, in the manners of a rude age, that merits particular attention; as it appears, in some countries, to have produced a remarkable exception to the foregoing observations.

ALTHOUGH marriage may be accounted one of the earliest, as well as one of the most useful institutions among mankind, yet some little time and experience are necessary before it can be fully established in a barbarous community; and we read of several nations, among whom it is either unknown, or takes place in a very imperfect and limited manner.

To a people in this situation it will appear, that children have much more connection with their mother than with their father. If a woman has no notion of attachment and fidelity to any particular person, if notwithstanding her occasional intercourse with different individuals she continues to live by herself, or with her own relations, the child which she has born, and which she maintains under her own inspection, is regarded as a member of her own family; and the father, who lives at a distance, has no opportunity of establishing an authority over it. In short, the same ideas which obtain among us, with regard to bastards, will, in those primitive times, be extended to all, or the greater part of the children produced in the country.

Thus, among the Lycians, according to Herodotus, children were accustomed to take their names from their mother, and not from their father; so that if any person was desired to give an account of the family to which he belonged, he was naturally led to recount his maternal genealogy in the female line. The same custom took place among the

the ancient inhabitants of Attica; as it does at present among several tribes of the natives in North America, and of the nations in the East Indies who inhabit the coast of Malabar *.

FROM these observations it is easy to see, that the mother of a numerous family, who

* Herodot. hist. lib. 1.—See Goguet's Origin of Laws, &c. vol. 2. book 1.—Charlevoix Journal historique d'un voyage de l'Amer. nouveaux voyage aux Orientales, tom. 2. p. 20.—Mod. Univ. Hist. vol. 6. p. 561.

Vestiges of the same practice are also to be found in the writings of the Roman lawyers. “ Qui ex duobus igitur
 “ campanis parentibus natus est, campanus est. Sed si ex
 “ patre campano, matre puteolana, æque municeps cam-
 “ panus est: nisi forte privilegio aliquo materna origo
 “ censeatur: tunc enim maternæ originis erit municeps.
 “ Utpote ilienfis concessum est, *ut qui matre ilienfe est,*
 “ *sit eorum municeps.* Etiam Delphis hoc idem tributum
 “ et conservatum est. Celsus etiam refert, Ponticis ex
 “ beneficio Pompeii magni competere, *ut qui Pontica ma-*
 “ *tre natus esset, Ponticus esset:* quod beneficium ad vulgo
 “ quæsitos solos pertinere quidam putant: quorum senten-
 “ tiam Celsus non probat: neque enim debuisse cavari ut
 “ vulgo quæsitus matris conditionem sequeretur: quam
 “ enim aliam originem hic habet? sed ad eos qui ex di-
 “ versarum civitatum parentibus orirentur,” l. 1. § 2.
 Dig. ad Municipal. Vide etiam, l. 51. l. 61. Cod.
 Theod. de decurion.

lives at a distance from her other relations, will often be raised to a degree of rank and dignity to which from her sex she would not otherwise be entitled. Her children being, in their early years, maintained and protected by her care and tenderness, and having been accustomed to submit to her authority, will be apt, even after they are grown up, and have arrived at their full strength and vigour, to behave to her with some degree of reverence and filial affection. Although they have no admiration of her military talents, they may often respect her upon account of her experience and wisdom; and although they should not themselves be always very scrupulous in paying her an implicit obedience, they will probably be disposed to support her interest against every other person whatever, and to espouse her quarrel in every strife or contention in which she happens to be engaged *.

THIS

* When the father lives at the head of his family, his authority must in a great measure annihilate that of the mother over the children. Thus when a young Hottentot is of age to be received into the society of men, it is usual for

THIS is in all probability the source of that influence which appears to have been possessed by the women in several rude and barbarous parts of the world.

In the island of Formosa, it is said, that in forming that slight and transient union between the sexes, to which our travellers, in conformity to the customs of Europe, have given the name of marriage, the husband quits his own family, and passes into that of his wife, where he continues to reside as long as his connection with her endures*. The same custom is said to be established among the people called Moxos, in Peru †.

for him to go and abuse his mother, and make a reproachful triumph upon his being discharged from her tuition, See Kolben, vol. 1. ch. 9. But when the mother lives at a distance from the father, and from her own relations, her children whom she has maintained can hardly fail, during a considerable part of their life, to look upon her as the principal person in the family,

* Du Halde, vol. 1. p. 179.

† See the extract of a Spanish relation, printed by order of the Bishop of the city Della Paz, published in the Travels of the Jesuits, by Mr. Lockman, vol. 2. p. 446.

IN the Ladrone islands the wife is absolute mistress of the house, and the husband is not at liberty to dispose of any thing without her permission. She chastises him, or puts him away, at pleasure; and whenever a separation happens, she not only retains all her moveables, but also her children, who consider the next husband she takes as their father*.

THE North American tribes are often accustomed to admit their women into their public councils; and even to allow them the privilege of being first called to give their opinion upon every subject of deliberation. Females, indeed, are held incapable of enjoying the office of chief, but through them the succession to that dignity is continued; and therefore, upon the death of a chief, he is succeeded, not by his own son, but by that of his sister; and in default of the sister's son, by his nearest relation in the female line. When his whole family happens to be extinct, the right of

* Father Gobien's history of the Ladrone or Marian Islands.—See Callender's coll. vol. 3. p. 51, 52.

naming a successor is claimed by the noblest matron of the village.

It is observed, however, by an author who has given us the fullest account of all these particulars, that the women of North America do not arrive at this influence and dignity till after a certain age, and after their children are in a condition to procure them respect: that before this period they are commonly treated as the slaves of the men; and that there is no country in the world where the female sex are in general more neglected and despised*.

AMONG the ancient inhabitants of Attica the women had, in like manner, a share in public deliberations. This custom continued till the reign of Cecrops, when a revolution was produced, of which the following fabulous relation has been given by historians. It is said, that after the building of Athens, Minerva and Neptune became competitors for the honour of giving a name to the city, and

* Charlevoix, journal historique de l'Amer. let. 19:

that Cecrops called a public assembly of the men and women in order to determine the difference. The women were interested upon the part of Minerva; the men upon that of Neptune; and the former carried the point by the majority of one vote. Soon after, there happened an inundation of the sea, which occasioned much damage, and greatly terrified the inhabitants, who believed that this calamity proceeded from the vengeance of Neptune for the affront he had suffered. To appease him, they resolved to punish the female sex, by whom the offence was committed; and determined that no woman should for the future be admitted into the public assemblies, nor any child be allowed to bear the name of its mother*.

It may explain this piece of ancient mythology to observe, that in the reign of Cecrops marriage was first established among the Athenians. In consequence of this establishment the children were no longer accustomed to bear

* See Goguet's origin of laws, &c. vol. 2. book 1.

the name of their mother, but that of their father, who, from his superior strength and military talents, became the head and governor of the family; and as the influence of the women was thereby greatly diminished, it was to be expected that they should in a little time be entirely excluded from those great assemblies which deliberated upon the public affairs of the nation.

AMONG the ancient Britons we find, in like manner, that the women were accustomed to vote in the public assemblies. That rude and imperfect institution of marriage, and that community of wives, which anciently took place in this country, must have prevented the children from acquiring any considerable connection with their father; and have disposed them to follow the condition of their mother, and to support her interest and dignity.

WHEN a woman, by being at the head of a large family, is thus advanced to influence and authority, and becomes a sort of female chief, she maintains a number of servants, and
endea-

endeavours to live with fuitable splendour and magnificence. In proportion to the affluence in which she is placed she is the more disposed to the indulgence of her passions; and, in a period when the sexes are but little accustomed to controul or disguise their inclinations, it is by no means surprising, that she is sometimes led into a correspondence with different male retainers, who happen to reside in her family, and over whom she exercises an authority resembling that of a master.

HENCE we are told, that in some provinces of the ancient Median empire it was customary for women to entertain a number of husbands, as in others it was customary for men to entertain a number of wives or concubines *.

THIS unusual kind of polygamy, if I may be allowed to use that expression, is also established at present upon the coast of Malabar †,

* Strabo, lib. 11.

† Modern Universal History, vol. 16.—Capt. Hamilton says, that upon the coast of Malabar a woman is not allowed to have more than twelve husbands,

and

and in some cantons of the Iroquois in North America *; and though there is no practice which appears more inconsistent with the views and manners of a civilized nation, it has in all probability been adopted by many individuals, in every country where the inhabitants were unacquainted with the regular institution of marriage †.

* Charlevoix, journal hist.

† Father Tachard, superior of the French Missionary Jesuits in the East Indies, gives the following account of the inhabitants in the neighbourhood of Calicut. In this country, says he, called Mallicami, there are *castes*, as in the rest of India. Most of them observe the same customs; and in particular they all entertain a like contempt for the religion and manners of the Europeans. But a circumstance, that perhaps is not found elsewhere, and which I myself could scarce believe, is that among these barbarians, and *especially the noble castes*, a woman is allowed, by the laws, to have several husbands. Some of these have had ten husbands together, all whom they look upon as so many slaves whom their charms had subjected. Travels of the Jesuits, translated from *Lettres edifiantes et curieuses*, by Mr. Lockman, vol. 1. p. 168.

SECTION III.

*The refinement produced in the passions of sex,
among shepherds.*

WHEN we examine the circumstances which occasion the depression of the women, and the low estimation in which they are held, in a simple and barbarous age, we may easily imagine in what manner their condition is varied and improved, in the subsequent periods of society. Their condition is naturally improved by every circumstance which tends to create more attention to the pleasures of sex, and to increase the value of those occupations that are suited to the female character; by the cultivation of the arts of life; by the advancement of opulence and civilization; and by the gradual refinement of taste and manners. By viewing the progress of society, in these respects, we may, in a great measure, account for the behaviour of different nations, in what relates to the rank of the sexes, their dispositions and sentiments towards

towards each other, and the regulations which they have established in the various branches of their domestic œconomy.

THE invention of taming and pasturing cattle, which may be regarded as the first remarkable improvement in the savage life, is productive of very important alterations in the state and manners of a people.

A SHEPHERD is more regularly supplied with food, and is commonly subjected to fewer hardships and calamities than those who live by hunting and fishing. As in proportion to the size of his family the number of his flocks may in some measure be increased, so the labour which is requisite for their management can never be very oppressive. Being thus provided with necessaries, he naturally aims at some little improvement in his manner of living. Having obtained the gratifications most essential to his subsistence, he is led to the pursuit of others which may render his situation more easy and comfortable; and among these the enjoyments which are derived from the intercourse of the sexes claim a prin-

D

cipal

cipal share, and become an object of attention.

THE leisure, tranquillity, and retirement of a pastoral life, seem calculated in a peculiar manner to favour the indulgence of those indolent gratifications. From higher notions of elegance and refinement a nicer distinction is made with regard to the objects of desire; and the mere animal pleasure is often accompanied with the more delicate correspondence of inclination and sentiment. That variety which arises from thence in the taste of individuals proves on many occasions an obstruction to their happiness, and prevents the lover from meeting with a proper return to his passion. But the delays and the uneasiness to which he is thereby subjected, serve only to heighten his eagerness and solicitude, in the pursuit of his favourite enjoyment; and he is wholly ingrossed by those tender ideas which inflame his imagination, and become the subject of those rude but expressive songs, which he is accustomed to compose for his ordinary pastime and amusement.

THE

THE acquisition of property among shepherds hath also a considerable effect upon the commerce of the sexes.

THOSE who have no other fund for their subsistence but the natural fruits of the earth, or the game which the country affords, are acquainted with no other distinctions in the rank of individuals, but such as arise from their personal accomplishments; distinctions which are never continued for any length of time in the same family, and which therefore can never be productive of any lasting influence and authority. But the invention of taming and pasturing cattle gives rise to a more remarkable and permanent distinction of ranks. Some persons, by being more industrious or more fortunate than others, are led in a short time to acquire more numerous herds and flocks, and are thereby enabled to live in greater affluence, to maintain a number of servants and retainers, and to increase in proportion their power and dignity. As the superior fortune which is thus acquired by a single person is apt to remain with his posterity, it creates a train of dependence in those

who have been connected with the possessor; and the influence which it occasions is gradually augmented and transmitted from one generation to another*.

THE introduction of wealth, and the distinction of ranks with which it is necessarily accompanied, puts an end to the free intercourse of the sexes, and renders it difficult for them to obtain the gratification of their wishes. As particular persons became opulent, they were led to entertain suitable notions of their own dignity; and while they aimed at superior elegance and refinement in their pleasures, they disdained to contract an alliance with their own dependents, or with those of inferior condition. If great families, upon an equal footing, happened to re-

* The degree of wealth acquired by single families of shepherds is greater than may at first be imagined. In the eastern parts of Tartary, where the inhabitants are chiefly maintained upon the flesh of rein-deer, many of the rich possess ten or twenty thousand of those animals. According to an account of that country, published not long ago, one of the chiefs was possessed of no less than an hundred thousand. See the History of Kamtschatka.

side in the same neighbourhood, they were frequently engaged in mutual depredations, and were obliged to have a watchful eye upon the conduct of each other, in order to defend their persons and their property from the invasions to which they were continually exposed. The animosities and quarrels which arose from their ambition or desire of plunder, and were fomented by reciprocal injuries, disposed them in all cases to behave to one another with distance and reserve, and proved on many occasions an insuperable bar to their correspondence.

AMONG persons living upon such terms, the passions of sex could not be gratified with the same facility as among hunters and fishers. The forms of behaviour, naturally introduced among people jealous of each other, would have a tendency to check all familiarity between them, and to render their approaches towards an intimacy proportionably slow and gradual. The rivalry subsisting between different families, and the mutual prejudices which they had long indulged, would often induce them to oppose

the union of their respective relations. And thus the inclinations of individuals, having in vain been smothered by opposition, would break forth with greater vigour, and rise at length to a higher pitch, in proportion to the difficulties which they had surmounted.

THOUGH it cannot be doubted but the poets have blended a great deal of fiction with those representations which they have given us of a golden age; yet there is reason to believe, that in those agreeable pictures of the pastoral life they have only embellished the traditions which were handed down to them. Hence the foundation for that particular species of poetry which is now appropriated by fashion to describe the pleasures of rural retirement, accompanied with innocence and simplicity of manners, and with the indulgence of all the tender passions.

AMONG the inhabitants of the eastern coast of Tartary it is said, that such tribes as are accustomed to the pasturing of cattle discover some sort of jealousy with regard to the chastity of their women; a circumstance looked

upon as a matter of perfect indifference by such as procure their subsistence merely by fishing *.

FROM what is related of the patriarch Jacob it would seem, that those families or tribes of shepherds which were anciently scattered over the country of Arabia had attained to some degree of improvement in their manners.

“ AND Jacob loved Rachel ; and said, I will
“ serve thee seven years for Rachel thy young-
“ er daughter.

“ AND Laban said, It is better that I give
“ her to thee than that I should give her to
“ another man : abide with me.

“ AND Jacob served seven years for Rachel :
“ and they seemed unto him but a few days,
“ for the love he had to her †.”

* History of Kamtschatka.

† Genesis, chap. xxix. ver. 18, 19, 20.

IN the compositions of Ossian, which describe the manners of a people acquainted with pasturage, there is often a degree of tenderness and delicacy of sentiment which can hardly be equalled in the most refined productions of a civilized age. Some allowance no doubt must be made for the heightening of a poet possessed of uncommon genius and sensibility of temper; but at the same time it is probable that the real history of his countrymen was the groundwork of those events which he has related, and of those tragical effects which he frequently ascribes to the passion between the sexes *.

“ LORMA sat in Aldo’s hall, at the light of
 “ a flaming oak: the night came, but he did
 “ not return, and the soul of Lorma is sad.—
 “ What detains thee, Hunter of Cona? for

* As this poet was chiefly employed in describing grand and sublime objects, he has seldom had occasion to introduce any images taken from the pastoral life. From the following passage, however, there can be no doubt that, in his time, the inhabitants of Morven were acquainted with pasturage.
 “ The deer descend from the hill. No hunter at a distance
 “ is seen. No whistling *cow-herd* is nigh.” Carric-thura,

“ thou

" thou didst promise to return.—Has the deer
 " been distant far, and do the dark winds
 " sigh round thee on the heath? I am in the
 " land of strangers, where is my friend, but
 " Aldo? Come from thy echoing hills, O
 " my best beloved!

" HER eyes are turned towards the gate,
 " and she listens to the rustling blast. She
 " thinks it is Aldo's tread, and joy rises in
 " her face:—but sorrow returns again, like a
 " thin cloud on the moon.—And thou wilt
 " not return, my love? Let me behold the
 " face of the hill. The moon is in the east.
 " Calm and bright is the breast of the lake!
 " When shall I behold his dogs returning
 " from the chase? When shall I hear his
 " voice loud and distant on the wind? Come
 " from thy echoing hills, Hunter of woody
 " Cona!

" HIS thin ghost appeared on a rock, like
 " the watry beam of the moon, when it rushes
 " from between two clouds, and the mid-
 " night shower is on the field.—She followed
 " the empty form over the heath, for she
 " knew

"knew that her hero fell.—I heard her ap-
"proaching cries on the wind, like the
"mournful voice of the breeze, when it sighs
"on the grass of the cave.

"She came, she found her hero: her voice
"was heard no more: silent she rolled her
"sad eyes; she was pale as a watry cloud,
"that rises from the lake to the beam of the
"moon.

"FEW were her days on Cona: she sunk
"into the tomb: Fingal commanded his bards,
"and they sung over the death of Lorma.
"The daughters of Morven mourned her for
"one day in the year, when the dark winds
"of autumn returned *,"

* The battle of Lora.

SECTION

SECTION IV.

The respect paid to the fair-sex, among people who have made progress in agriculture.

THE passions which relate to the commerce of the sexes are still raised to a greater height, when men have applied themselves to the cultivation of the ground and the improvement of the several branches of husbandry.

THE improvement of agriculture produceth a greater abundance of the necessaries of life; and excites, in the better sort of people, more attention to those pleasures and refinements of which their situation admits, and to which they are prompted by their natural appetites. We may observe also that it gives rise to property in land, the most valuable and permanent species of wealth; by the unequal distribution of which a greater disproportion is made in the fortune and rank of individuals,

and

and the causes of jealousy and of dissension between the members of different families are increased and multiplied.

IN the heroic times of Greece, we may, in some measure, discern the effect of those circumstances upon the character and manners of the people.

THE inhabitants of that country were then divided into clans or tribes, who had for the most part begun the practice of agriculture, who had quitted the wandering life of shepherds, and formed a number of separate and independent villages. As those little societies maintained a constant rivalry with each other, and were frequently engaged in actual hostilities, they entertained a mutual apprehension and distrust, which prevented them from conversing together, unless upon extraordinary occasions; and when in particular cases a formal visit had produced an interview between the men and women of different families, it was often attended with such violent passion as might be expected from the restraints to which they were usually subjected.

A chief who had fallen in love with the wife or the daughter of a neighbouring prince, was disposed to encounter every danger in order to gratify his desires; and, after seducing the lady, or carrying her away by force, he was generally involved in a war with her relations, and with such as chose to assist them in vindicating the honour of their family. Disorders of this kind were for a considerable time the source of the chief animosities among the different states of Greece, as well as between them and the inhabitants of Asia Minor; and the rape of Io, of Europa, of Medea, and of Helen, are mentioned as the ground of successive quarrels, which in the end were productive of the most distinguished military enterprize that is recorded in the history of those periods.

BUT notwithstanding these particulars, from which it appears that the passions of sex had often a considerable influence upon the conduct of the people, we are not to imagine that the Greeks in those times had entirely shaken off their ancient barbarous manners, or in their ideas, with respect to the
 women,

women, had attained to any high degree of delicacy or refinement.

IN the Iliad, the wife of Menelaus is considered as of little more value than the treasure which had been stolen along with her. The restitution of the lady and of that treasure is always mentioned in the same breath ; and seems to be regarded as a full reparation of the injury which Menelaus had sustained. And though it was known that Helen had made a voluntary elopement with Paris, yet her husband is far from discovering the least resentment at her conduct, or unwillingness to receive her again into favour*.

Even the wife of Ulysses, whose virtue in refusing the suitors is so much celebrated in the Odyssey, is supposed to derive her principal merit from preserving to her husband's family the dowry which she had brought along with her, and which it seems upon her

* Iliad, book 3. l. 100. 127. 355.

second marriage must have been restored to her father Icarius †.

AND though Telemachus is always represented as a pious and dutiful son, we find him reproving his mother in a manner which shows he had no very high notion of her dignity, or of the respect which belonged to her sex.

" Your widowed hours, apart, with female toil,
 " And various labours of the loom, beguile ;
 " There rule, from palace cares remote and free ;
 " That care to man belongs, and most to me *."

PENELOPE is so far from being offended at this language, that she appears to look upon it as a mark of uncommon prudence and judgment in so young a person.

" Mature beyond his years, the queen admires
 " His sage reply, and with her train retires.

† How to Icarius, in the bridal hour,
 Shall I, by waste undone, refund the dower!

Pope's *Odys.* book 2. l. 153.

* *Ibid.* book 1. l. 453.

64 DISTINCTION OF

WHEREVER a country is inhabited by independent tribes of barbarians, who have taken up a fixed residence with a view to the cultivation of the ground, and who have made some progress in the appropriation of landed estates, there we usually find that the manners of the people are such as indicate considerable improvements in the correspondence between the sexes.

THE acquisition of extensive property in land, the jealousy arising from the distinction of ranks, and the animosities and feuds which are apt to be produced by the neighbourhood of great independent families, appear to have been attended with very remarkable consequences among these barbarous nations who, about the fifth century, invaded the Roman empire, and afterwards settled in the different provinces which they had conquered.

As these nations were small, and as they acquired an extensive territory, the several tribes or families of which they were composed spread themselves over the country, and were permitted to occupy very large estates. Particular

particular chieftains or heads of families became great and powerful in proportion to their wealth, which enabled them to maintain a numerous train of dependents and followers. Being neither acquainted with arts and civilization, nor reduced under subjection to any regular government, they lived in the constant exercise of those mutual depredations and hostilities which are natural to independent tribes of barbarians, and which might be expected from the vast opulence and ambition of neighbouring proprietors. In this situation they remained, with little variation, near a thousand years; during which the same causes continued to operate in forming the character and manners of the people, and gave rise to a set of customs and institutions of which we have no example in any other age or country.

THE high notions of military honour, and the romantic love and gallantry by which these nations were so much distinguished, appear to have been equally derived from those particular circumstances.

THE men of that age being almost continually employed in war, acquired such habits as rendered them in a great measure insensible to danger, and capable of supporting the fatigue and hardships to which they were so frequently exposed. In their various enterprises they had often occasion to display their strength or their valour, to vie with each other in the performance of military exploits that were admired and applauded by their companions. To gain a character in this respect was therefore the aim of every individual; and, among persons who aspired to superior rank and influence, was even preferred to the prospect of enriching themselves with plunder. They fought merely to establish a reputation in arms, and affected to look upon every inferior consideration as mean and ignoble. They disdained to practise unfair means in order to gain a victory, or to insult and oppress an enemy whom they had subdued. According to these notions of honour they regulated their whole manner of fighting; and laid down certain rules and maxims by which the gentry were directed in all their military transactions, and from which they
were

were never allowed to deviate without bringing an indelible stain upon their character *.

As the attention of those nations was so generally turned to the military profession, it was natural that even in times of peace their sports and amusements should be such as had a relation to that employment, and tended to improve their warlike accomplishments. Those who belonged to different tribes or families were disposed to boast of their prowess; and, when not engaged in actual hostilities, were accustomed to challenge one another to contend in exercises by which they might display their superior skill, their valour, and their activity. Hence the origin of jousts and tournaments; those images of war, which were frequently exhibited by men of rank and distinction, and which tended still farther to improve those nice punctilios of behaviour that

* But Calidore again up-rose full light,
 Whiles yet his foe lay fast in senseless sound;
 Yet would he not him hurt, altho' he might:
 For shame he ween'd a sleeping wight to wound.
 Spencer's Fairy Queen, book 6.

were commonly practised by the military people in every contest or quarrel.

FROM this prevailing spirit of the times, the art of war became the study of every one who was desirous of maintaining the character of a gentleman. The youth were early initiated in the profession of arms, and served a sort of apprenticeship under persons of rank and experience. The young squire became in reality the servant of that leader to whom he had attached himself, and whose virtues were set before him as a model for imitation. He was taught to perform with ease and dexterity those exercises which were either ornamental or useful, and at the same time he endeavoured to acquire those talents and accomplishments which were thought suitable to his profession. He was taught to look upon it as his duty to check the insolent, to restrain the oppressor, to protect the weak and defenceless; to behave with frankness and humanity even to an enemy, with modesty and politeness to all. According to the proficiency which he had made, he was proportionably advanced in rank and character, and was honoured with
new

new titles and marks of distinction, till at length he arrived at the dignity of knight-hood ; a dignity which even the greatest potentates were ambitious of acquiring, as it was supposed to distinguish a person who had obtained the most complete military education, and who had attained to a high degree of eminence in those particular qualities which were then universally admired and respected*.

THE situation of mankind in those periods had also a manifest tendency to heighten and

* It may be remarked that, among rude people who are not restrained from rapine by regular government, the progress of the military virtues is generally in proportion to the improvements that are made with relation to the means of procuring subsistence. The Indians of America, who live by hunting and fishing, however their stupidity may enable them to suffer pain with apparent marks of fortitude, are yet far from being remarkable for courage in the field. (See *Recherches philosophiques sur les Américains*.) The Arabs and Tartars, who have arrived at the improvements of pasturage, are much more distinguished by their bravery ; and even these appear to be inferior in valour and military accomplishments to those tribes who have made advances in agriculture, like the early Romans, or the barbarians who laid the foundation of almost all the modern states of Europe.

improve the passion between the sexes. It was not to be expected that those opulent chiefs, who were so often at variance, and who maintained a constant opposition to each other, would allow any sort of familiarity to take place between the members of their respective families. Retired in their own castles, and surrounded with their numerous vassals, they looked upon their neighbours either as inferior to them in rank, or as enemies, against whom they were obliged to be constantly upon their guard. They behaved to each other with that ceremonious civility which the laws of chivalry required; but at the same time with that reserve and caution which a regard to their own safety made it necessary for them to observe. The young knight as he marched to the tournament saw at a distance the daughter of the chieftain by whom the show was exhibited; and it was even with difficulty that he could obtain access to her, in order to declare the sentiments with which she had inspired him. He was entertained by her relations with that cold respect which demonstrated their unwillingness to contract an alliance with him. The lady herself was taught

to assume the pride of her family, and to think that no person was worthy of her affection who did not possess the most exalted rank and character. To have given way to a sudden inclination would have disgraced her for ever in the opinion of all her kindred ; and it was only by a long course of attention, and of the most respectful service, that the lover could hope for any favour from his mistress *.

THE barbarous state of the country at that time, and the injuries to which the inhabitants, especially those of the weaker sex, were frequently exposed, gave ample scope for the display of military talents; and the knight who had nothing to do at home was encouraged to wander from place to place,

* Among the Franks, so early as the compilation of the Salique law, it appears that a high degree of reserve was practised between the sexes. M. L'Abbé Velly quotes, from that ancient code, the following article, "*Celui qui aura serré la main d'une femme libre, sera condamné à une amende de quinze sous d'or.*" And he adds, "On conviendra que si notre siècle est plus poli que celui de nos anciens législateurs, il n'est du moins ni si respectueux, ni si réservé." *Histoire de France*, tom. 1. p. 134.

and from one court to another, in quest of adventures; in which he endeavoured to advance his reputation in arms, and to recommend himself to the fair of whom he was enamoured, by fighting with every person who was so inconsiderate as to dispute her unrivalled beauty, virtue, or personal accomplishments. Thus, while his thoughts were constantly fixed upon the same object, and while his imagination, inflamed by absence and repeated disappointments, was employed in heightening all those charms by which his desires were continually excited, his passion was at length wrought up to the highest pitch; and uniting with the love of fame, became the ruling and governing principle of his conduct, and gave a particular turn and direction to all his sentiments and opinions.

As there were many persons in the same situation, so they were naturally inspired with similar sentiments. Rivals to one another in military glory, they were often competitors, as Milton expresseth it, "to win her grace
"whom all commend;" and the same emulation which disposed them to aim at pre-eminence

nence in the one respect, excited them with no less eagerness to dispute the preference in the other. Their dispositions and manner of thinking became fashionable, and were gradually diffused by the force of education and example. To be in love was looked upon as one of the necessary qualifications of a knight; and he was no less ambitious of showing his constancy and fidelity to his mistress, than of displaying his military virtues. He assumed the title of her slave, or servant. By this he distinguished himself in every combat; and his success was supposed to redound to her honour, not less than to his own. If she had bestowed upon him a present to be worn in the field of battle in token of her regard, it was considered as a sure pledge of victory, and as laying upon him the strongest obligation to render himself worthy of the favour*.

THE sincere and faithful passion, the distant sentimental attachment, which commonly occupied the heart of every warrior, and which

* *Memoires sur l'ancienne chevalrie, par M. de la Curne de Ste. Palaye.*

he professed upon all occasions, was naturally productive of the utmost purity of manners, and of great respect and veneration for the female sex. Persons who made a point of defending the reputation and dignity of that particular lady to whom they were devoted, became thereby extremely cautious and delicate; lest, by any insinuation whatever, they should hurt the character of another, and be exposed to the just censure and resentment of those by whom she was protected. A woman who deviated so far from the established maxims of the age as to violate the laws of chastity, was indeed deserted by every body, and was therefore universally contemned and insulted. But those who adhered to the strict rules of virtue, and maintained an unblemished reputation, were treated like beings of a superior order. The love of God and of the ladies was one of the first lessons inculcated upon every young person who was initiated into the military profession. He was instructed with care in all those forms of behaviour which, according to the received notions of gallantry and politeness, were settled with the most frivolous exactness. He was frequently put under the
tuition

tuition of some matron of rank and distinction, who in this particular directed his education, and to whom he was under a necessity of revealing all his sentiments, thoughts, and actions. An oath was imposed upon him, by which he became bound to vindicate the honour of the ladies, as well as to defend them from every species of injustice; and the uncourteous knight, who behaved to them with rudeness, or who ventured to injure and insult them, became the object of general indignation and vengeance, and was treated as the common enemy of all those who were actuated by the true and genuine principles of chivalry *.

THESE ideas of love and galantry, and of military honour, which were raised to such a height and so universally diffused among those nations, as they were displayed in all the amusements and diversions of the people, they had necessarily a remarkable influence upon the genius and taste of their literary composi-

* Memoires sur l'ancienne chevalrie, par M. de la Curne de Ste. Palaye.

tions. Men were pleased with a recital of what they admired in real life; and the first authors were a sort of poetical historians, who endeavoured to embellish those events which had struck their imagination, and appeared the most worthy of being preserved.

SUCH were the bards, who about the eleventh century are said, along with their minstrels, to have attended the festivals and entertainments of princes, and to have sung, with the accompaniment of musical instruments, a variety of small poetical pieces of their own composition, describing the heroic sentiments, as well as the love and gallantry of the times *.

THEY were succeeded by the writers of romance, who related a longer and more connected series of adventures, in which were exhibited the most extravagant instances of valour and generosity, of patience and fortitude, of respect to the ladies, of disinterested love, and inviolable fidelity; subjects the most capable of warming the imagination, and of pro-

* Histoire du theatre François, par M. de Fontenelle.

ducing the most sublime and refined descriptions ; but which were often disgraced by the unskilfulness of the author, and by that excessive propensity to exaggeration, and turn for the marvellous, which prevailed in those ages of darkness and superstition. These performances however, with all their faults, may be regarded as striking monuments of the Gothic taste and genius, to which there is nothing similar in the writings of antiquity ; and at the same time as useful records, that contain some of the outlines of the history, together with a faithful picture of the manners and customs of those remarkable periods.

THIS observation may also be applied in some measure to the Epic poetry which followed, and which, with more correctness and regularity, and with the graces of versification, described the same heroic sentiments, and the same romantic love and gallantry, that were peculiar to the ages of chivalry. In the Orlando Furioso, in the Gierusalemme liberata, and in the Fairy Queen, we discover sufficiently the general spirit of the times in which those poems were written ; though tinged by

by the peculiar character, and distinguished by the different genius of the respective authors. When the improvement of public shows and spectacles had given rise to dramatic performances, they were composed after the same model; and the first tragedies, unless when founded upon religious subjects, represented love as the grand spring and mover of every action; the source of all those hopes and fears with which the principal persons were successively agitated, and of that distress and misery in which they were finally involved.

THE first deviation from this general taste of composition in works of entertainment may be discovered in Italy, where the revival of letters was early attended with some relaxation of the Gothic institutions and manners.

THE advancement of the Italian states in commerce and manufactures, so early as the thirteenth century, had produced a degree of opulence and luxury, and was followed, soon after, by the cultivation of the fine arts, and the improvement of taste and science. The principal

principal towns of Italy came thus to be filled with tradesmen and merchants, whose unwarlike dispositions, conformable to their manner of life, were readily communicated to those who had intercourse with them. To this we may add the influence of the clergy, who resorted in great numbers to Rome, as the fountain of ecclesiastical preferment; and who, embracing different views and principles from those of the military profession, were enabled to propagate their opinions and sentiments among the greater part of the inhabitants.

THE decay of the military spirit among the Italians was manifest from their disuse of duelling, the most refined method of executing private revenge, and from their substituting in place of it the more artful but cowardly practice of poisoning. Their taste of writing was in like manner varied, according to this alteration of their circumstances; and the people began to relish those ludicrous descriptions of low life and of licentious manners which we meet with in the tales of Ariosto and of Boccace, so contrary to the gravity and decorum of former times, and which appear

appear to have taken their origin from the monks, in consequence of such dispositions and habits as their constrained and unnatural situation had a tendency to produce *:

IN the other countries of Europe, the manners introduced by chivalry were more firmly rooted; and acquiring stability from custom, may still be observed to have a good deal of influence upon the taste and sentiments even of the present age. When a change of circumstances, more than the inimitable ridicule of Cervantes, had contributed to explode the ancient romances, they were succeeded by those serious novels which in France and England are still the favourite entertainment, and which represent in a more moderate degree the same ideas of military honour and of love and gallantry which prevailed in the writings of a former period. The fashion of those times

* As a proof that this species of composition was the original production of Italy, it may be observed that those writers who have been desirous of introducing it into other countries, are only servile imitators, or rather mere translators of the Italian authors.

has also remained with us in all our grave theatrical compositions; and it is only of late that, from the opinion as well as the example of an eminent author *, we have been taught that a tragedy without a love-plot could be attended with any degree of success.

* M. de Voltaire.

clothed and lodged, as well as maintained, in a more comfortable manner, and they engage in such occupations as are calculated for their

SECTION V.

Changes in the condition of women, arising from the improvement of useful arts and manufactures.

MAN differs remarkably from other animals in that wonderful capacity for the improvement of his faculties with which he is endowed. Never satisfied with any particular attainment, he is continually impelled by his desires from the pursuit of one object to that of another; and his activity is called forth in the prosecution of the several arts which render his situation more easy and agreeable. This progress however is slow and gradual; at the same time that, from the uniformity of the human constitution, it is accompanied with similar appearances in different parts of the world. When agriculture has created abundance of provisions, people extend their views to other circumstances of smaller importance. They endeavour to be clothed

clothed and lodged, as well as maintained, in a more comfortable manner; and they engage in such occupations as are calculated for these useful purposes. By the application of their labour to a variety of objects, commodities of different kinds are produced. These are exchanged for one another, according to the demand of different individuals; and thus manufactures, together with commerce, are at length introduced into a country.

THESE improvements are the source of very important changes in the state of society, and particularly in what relates to the women. The advancement of a people in manufactures and commerce has a natural tendency to remove those circumstances which prevented the free intercourse of the sexes, and contributed to heighten and inflame their passions. From the cultivation of the arts of peace, the different members of society are more and more united, and have occasion to enter into a greater variety of transactions for their mutual benefit. As they become more civilized in their manners, they perceive the advantages of establishing a regular govern-

ment ; and different tribes who lived in a state of independence, are restrained from injuring one another, and reduced under subjection to the laws. Their former animosities, the cause of so much disturbance, are no longer cherished by fresh provocation, and at length are intirely buried in oblivion. Being no longer withheld by mutual fear and jealousy, they are led by degrees to contract an acquaintance with each other, and to carry on a more intimate correspondence. The men and women of different families are permitted to converse with more ease and freedom, and meet with less opposition to the indulgence of their particular inclinations.

BUT while the fair sex become less frequently the objects of those romantic and extravagant passions, which in some measure arise from the disorders of society, they are more universally regarded upon account of their useful or agreeable talents.

WHEN men begin to disuse their ancient barbarous practices, when their attention is not wholly engrossed by the pursuit of military

tary reputation, when they have made some progress in arts, and have attained to a proportional degree of refinement, they are naturally led to pay a suitable regard to those female accomplishments and virtues which have so much influence upon every species of improvement, and which contribute in so many different ways to multiply the comforts of life. Among a people in this situation, the wife is regarded neither as the slave nor the idol of her husband, but as the friend and companion, who soothes and alleviates his misfortunes, who doubles all his joys, and who is capable of taking a part in the care and labour to which he is subjected. Loaded by nature with the first and most immediate concern in rearing and maintaining the children, she is endowed with such dispositions as fit her for the discharge of this important duty while at the same time she is particularly qualified for the exercise of such minute occupations as require skill and dexterity more than strength, which are so necessary in the interior management of the family, and are of so much consequence in promoting the happiness and prosperity of all its members.

WHAT are the effects of the regard which is shown to those female accomplishments by a people who are thus advancing in improvement? In what manner does it operate in directing the education, and in forming the character and manners of the sex? They learn to suit their behaviour to the circumstances in which they are placed, and to that particular standard of propriety and excellence which is set before them. Being respected upon account of their diligence and proficiency in the various branches of domestic œconomy, they naturally endeavour to improve and extend those valuable qualifications. They are taught to apply with assiduity to those occupations which fall under their province, and to look upon idleness as the greatest blemish in the female character. They are instructed sometimes in whatever will qualify them for the duties of their station, and is thought conducive to the ornament of private life. Engaged in these solid pursuits, they are less apt to be distinguished by such brilliant accomplishments as make a figure in the circle of gaiety and amusement. Accustomed to live in retirement, and to keep company with their
nearest

nearest relations and friends, they are inspired with all that modesty and diffidence which is natural to persons unacquainted with promiscuous conversation; and their affections are neither dissipated by pleasure, nor corrupted by the vicious customs of the world. As their attention is principally bestowed upon the members of their own family, they are led in a particular manner to improve those feelings of the heart which are excited by these tender connections, and they are trained up in the practice of all the domestic virtues.

THE celebrated character which is drawn by Solomon of the virtuous woman is highly expressive of those ideas and sentiments, with regard to the fair sex, which are commonly entertained by a people who have made some improvements in commerce and in the arts of life.

“ SHE seeketh wool and flax, and worketh
“ willingly with her hands.

“ SHE is like the merchant ships, she bring-
“ eth her food from afar.

"SHE riseth also while it is yet night, and
"giveth meat to her household, and a portion
"to her maidens.

"SHE considereth a field and buyeth it:
"with the fruit of her hands she planteth a
"vineyard.

"SHE perceiveth that her merchandise is
"good: her candle goeth not out by night.

"SHE layeth her hands to the spindle, and
"her hands hold the distaff.

"SHE stretcheth out her hand to the poor;
"yea, she reacheth forth her hands to the
"needy.

"SHE is not afraid of the snow for her
"household: for all her household are clothed
"with scarlet.

"SHE maketh herself coverings of tapestry,
"her cloathing is silk and purple.

"HER

" HER husband is known in the gates, when
" he sitteth among the elders of the land.

" SHE maketh fine linen, and selleth it, and
" delivereth girdles unto the merchant.

" STRENGTH and honour are her cloathing,
" and she shall rejoice in time to come.

" SHE openeth her mouth with wisdom,
" and in her tongue is the law of kindness.

" SHE looketh well to the ways of her
" household, and eateth not the bread of idleness *."

IN many of the Greek states, during their most flourishing periods, it appears, that the fair sex were viewed nearly in the same light, and that their education was chiefly calculated to improve their industry, and to render them useful members of society. Their employments were altogether domestic, and their

* Proverbs, chap. xxxi. ver. 13, &c.

attention seems to have been engrossed by the care of their own families, and by those smaller branches of manufacture which they were qualified to exercise. They were usually lodged in a remote apartment of the house, and they were seldom visited by any person except their near relations. Their modesty and reserve, and their notions of a behaviour suited to the female character, were such as might be expected from their retired manner of life. They never appeared abroad without being covered with a veil, and were not allowed to be present at any public entertainment †. “As for you, women,” says Pericles in one of the orations in Thucydides, “it ought to be the constant aim of your sex to avoid being talked of by the public, and it is your highest commendation that you should never be the objects either of applause or censure ‡.”

In the *Andromache* of Euripides, a lady is severely reproved for appearing out of doors,

† Cornel. Nep. pref.—Cicero in Verrem.—Lys. Orat. cont. Erastest.

‡ Thucydides, lib. 2.

which

which it seems was considered as a freedom that was likely to endanger her reputation.

LYCIAS, in one of his orations, introduces a widow, the mother of several children, who talks of appearing in public as one of the most desperate measures to which she could be driven by her misfortunes. She prays and entreats her son-in-law to call together her relations and friends, that she might inform them of her situation. "I have," says she, "never before been accustomed to speak in the presence of men; but I am compelled by my sufferings to complain of the injuries I have met with."

SOLON is said to have even made regulations for preventing the women from violating those decorums which were esteemed so essential to their character. He appointed that no matron should go from home with more than three garments, nor a larger quantity of provisions than could be purchased for an obolus. He also provided, that when any

* Lys. Orat. cont. Diagit.

matron went abroad, she should always have an attendant, and a lighted torch carried before her *.

It is probable, that the reclusé situation of

the Grecian women, which was adapted to the circumstances of the people upon their first advancement in civilization, was afterwards maintained from the influence of custom, and from an inviolable respect to their ancient institutions. "At the same time, while it appeared conducive to the more solid enjoyments of life, it undoubtedly prevented the two sexes from improving the arts of conversation, and from giving a polish to the expression of their thoughts and sentiments. Hence it is, that the Greeks, notwithstanding their learning and good sense, were remarkably deficient in delicacy and politeness of manners; and were so little judges of propriety in wit and humour, as to relish the low ribaldry of an Aristophanes, at a period when they were entertained with the sublime eloquence of a De-

mosthenes.

* See Potter's Greek antiquities.

mosthenes,

mœsthenes, and with the pathetic compositions of a Sophocles and an Euripides.

THE military character, considered with respect to politeness in ancient Greece, and compared with the same character in modern times, seems to afford a good illustration of what has been observed. Soldiers, as they are men of the world, have usually such manners as are formed by company and conversation. In ancient Greece they were no less remarkable for rusticity and ill-manners, than in the modern nations of Europe they are distinguished by politeness and good-breeding; for Menander the comic poet says, that he can hardly conceive such a character as that of a polite soldier to be formed even by the power of the Deity *.

As the servile condition of the women in rude times subjects them to constant labour and drudgery, they cannot fail to acquire such habits as fit them for the exercise of

* Menander apud Stobæum.

their employment; and therefore, when a spirit of improvement is afterwards introduced into a country, they seem naturally qualified to surpass the other sex by their superior proficiency in many of those arts and manufactures which become then the objects of attention. This will perhaps enable us to account for a singular fact which is mentioned in the history of the ancient Egyptians, that the women were accustomed to do all the business without doors, while the men were content to act in a subordinate capacity, to spin or weave, and to engage in such inferior occupations as were committed to their management. Among that effeminate people it would seem, that after the military spirit was extinguished by the progress of civilized manners, the men were sunk in a state of indolence, which rendered them in a great measure incapable of prosecuting the arts; and the women, who were already accustomed to labour, and who had acquired the necessary talents for it, were permitted to take the lead in all those employments that were reckoned of importance*.

* See Herodot. book 2.

SECTION VI.

The effects of great opulence, and the culture of the elegant arts, upon the rank and condition of the sexes.

THE progressive improvements of a country are still accompanied with farther variations in the sentiments and manners of the inhabitants.

THE first attention of a people is directed to the acquisition of the mere necessities of life, and to the exercise of those occupations which are most immediately requisite for subsistence. According as they are successful in these pursuits, they feel a gradual increase of their wants, and are excited with fresh vigour and activity to search for the means of supplying them. The advancement of the more useful arts is followed by the cultivation of those which are subservient to pleasure and entertainment. Mankind, in proportion to the progress

progress they have made in multiplying the conveniencies of their situation, become more refined in their taste, and luxurious in their manner of living. Exempted from labour, and placed in great affluence, they endeavour to improve their enjoyments, and become addicted to all those amusements and diversions which tend to occupy their minds, and to relieve them from languor and weariness, the effects of idleness and dissipation. The pleasures which nature hath ingrafted upon the love between the sexes, become the source of an elegant correspondence, and have a general influence upon the commerce of society. The fair sex are more universally admired and courted upon account of the agreeable qualities which they possess, and upon account of the amusement which their conversation affords. They are encouraged to quit that retirement which was formerly esteemed so suitable to their character, to enlarge the sphere of their acquaintance, and to appear in mixed company, and in public meetings of pleasure. They lay aside the spindle and the distaff, and engage in other employments more agreeable to the fashion. As they
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are introduced more into public life, they are led to cultivate those talents which are adapted to the intercourse of the world, and to distinguish themselves by polite accomplishments that tend to heighten their personal attractions, and to excite those peculiar sentiments and passions of which they are the natural objects.

THESE improvements, in the state and accomplishments of the fair sex, might be illustrated from a view of the manners in the different nations of Europe. They have been carried to the greatest height in France, and in some parts of Italy, where the fine arts have received the highest cultivation, and where a taste for refined and elegant amusement has been generally diffused. The same improvements have made their way into England and Germany; though the attention of the people to the more necessary and useful arts, and their slow advancement in those which are subservient to entertainment, has, in these countries, prevented the intercourse of the sexes from being equally extended. Even in Spain, where, from the defects of administration, or from whatever causes, the arts have

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for a long time been almost entirely neglected, the same effects of civilization are at length beginning to appear, by the admission of the women to the same freedom which they have in the other countries of Europe.

THUS we may observe, that in refined and polished nations there is the same free communication between the sexes as in the ages of rudeness and barbarism. In the latter women enjoy the most unbounded liberty, because it is regarded as of no consequence what use they shall make of it. In the former they are intitled to the same freedom, upon account of those agreeable qualities which they possess, and the rank and dignity which they hold as members of society.

It would seem, however, that there are certain limits beyond which it is impossible to push the improvements arising from wealth and opulence. The love of pleasure, when carried to excess, is apt to weaken and destroy those passions which it endeavours to gratify, and to pervert those appetites which nature hath bestowed upon mankind for the
most

most beneficial purposes. Among a simple people the free intercourse of the sexes is attended with no bad consequences ; but in opulent and luxurious nations it gives rise to licentious and dissolute manners, inconsistent with good order, and with the more important interests of society.

" *Prima peregrinos obscena pecunia mores*

" *Intulit ; et turpi fregerunt sæcula luxu*

" *Divitiæ molles. Quid enim Venus ebria curat ?—*

THE voluptuousness of the eastern nations, whether arising from the effect of their climate, or from the facility with which they are able to procure subsistence, has introduced the practice of polygamy, by which the women are again reduced into a state of slavery and confinement ; and a great proportion of the inhabitants are employed in such offices as render them incapable of contributing either to the population or to the useful improvements of the country *.

AMONG

* What is here said with respect to polygamy is only applicable to that institution as it takes place among opu-

AMONG the Romans during the latter ages, and in some of the modern nations of Europe, where the influence of ancient usage, or of the established religion, has prevented these abuses, the excesses of luxury have been productive of disorders almost equally pernicious; and instead of introducing polygamy, have carried the common prostitution of the women to a height which is not more favourable to the multiplication of the species, and which has rendered a considerable part of the one sex so corrupt and profligate, as to sink them almost below the compassion of the other.

THE revolutions that have been mentioned in the condition and manners of the sexes appear to be derived from the natural progress of a people in procuring the common enjoyments of life. It is not intended, in this discourse, to consider the variations in the state of the women, which may arise from

lent and luxurious nations; for in barbarous countries, where it is introduced in a great measure from motives of conveniency, and where it is accompanied with little or no jealousy, it cannot have the same consequences.

other

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other causes; from the climate, the religion, or civil government of a nation. These, being peculiar to the inhabitants of certain countries, or to the members of particular communities, make no part of the general history of society.

C H A P. II.

Of the jurisdiction and authority of a father over his children.

SECTION I.

The power of a father in early ages.

THE jurisdiction and authority which in early times a father exercised over his children was of the same nature, and depended upon the same principles, with that of a husband over his wife. Before the institution of regular government and laws, the strong are permitted with impunity to oppress the weak; and among a people who have given no attention to cultivate and civilize their manners, every one is disposed to use with severity that power which he happens to possess, and to behave in a tyrannical manner to those whom fortune hath subjected to his dominion.

AFTER marriage has been completely established in a community, the husband, as has been formerly observed, becomes the head and governor of his family, and assumes the chief direction and disposal of all its members. As he has the burden of their support and protection, so he naturally claims the management of whatever they have acquired, and the administration of all their important concerns. In the care and education of his children, he is under no other limitation or restraint than what arises from his natural affection; a sentiment which, in the breast of a savage, is often smothered by the calamities to which he is exposed, and counteracted by the natural ferocity of his temper. When he finds it inconvenient to maintain his offspring, he is sometimes so hard-hearted as to abandon them entirely, and suffer them to perish with hunger, or be devoured by wild beasts.

If an opportunity should offer of making a profitable bargain by selling his children for slaves, it is likely that upon some occasions he will be tempted to embrace it; and that the misfortunes which they suffer, from a transaction

action of this nature, will appear of little importance, when put in opposition to his interest. As the resentment of a savage is easily kindled, and raised to an excessive pitch; as he behaves like a sovereign in his own family, where he has never been accustomed to bear opposition or controul, we need not wonder that, when provoked by unusual disrespect or contradiction, he should be roused and hurried on, in a sudden transport of passion, to commit the most unnatural and barbarous of all actions, the murder of his own child.

THE children, in their early years, are under the necessity of submitting to the severe and arbitrary will of their father. From their inferiority in strength, they are in no condition to dispute his commands. They are incapable of maintaining themselves, and depend entirely upon him for subsistence. To him they must fly for succour and protection, whenever they are exposed to danger, or threatened with injustice; and looking upon him as the source of all their enjoyments, they have every motive to court his favour and to avoid his displeasure. While their helpless
situation

situation renders them objects of his pity, his efforts to support them naturally tend to awaken his feelings in their behalf. Growing up under his care and tuition, they begin to hush the endearing names of a parent, and to exert those talents, from the future display of which he derives the most flattering expectations. His uncultivated mind is no less prone to the excess of indulgence, than of anger and resentment; and as the latter cannot fail to inspire his children with fear, so the former excites their love and gratitude, and gives rise to that filial affection, which, from its universal influence, has been commonly accounted an original instinct in nature.

THE respect and reverence which is paid to the father, upon account of his wisdom and experience, is another circumstance that contributes to support his power and authority.

AMONG savages, who are strangers to the art of writing, and who have scarcely any method of recording facts, the experience and observation of each individual are almost the only means of procuring knowledge; and
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the only persons who can attain a superior degree of wisdom and sagacity are those who have lived to a considerable age.

WE may further observe, that among rude and ignorant people, a superiority in knowledge and wisdom is the source of great honour and distinction. The man who understands any operation of nature which is unknown to the vulgar is beheld with superstitious awe and veneration. As they cannot penetrate into the ways by which he hath procured his information, they are disposed to magnify his extraordinary endowments, and to feel an unbounded admiration of that skill and learning which they are unable to comprehend. They suppose that nothing is beyond the compass of his abilities, and apply to him for counsel and direction in every new and difficult emergency. They are apt even to imagine that he holds commerce with invisible beings, and to believe that he is capable of seeing into futurity, and of altering the course of human events by the wonderful power of his art. Thus, in the dark ages, a slight acquaintance with the heavenly bodies

gave rise to the absurd pretensions of judicial astrology ; and a little knowledge of chemistry or medicine was supposed to reveal the invaluable secret of rendering ourselves immortal.

As in all barbarous countries old men are distinguished by their great experience and wisdom, they are upon this account universally respected, and commonly attain superior influence and authority.

AMONG the Grecians, at the siege of Troy, the man who had lived three ages was treated with uncommon deference, and was their principal adviser and director in all important deliberations.

“ Dost thou not see, O Gaul,” says Morni in one of the poems of Ossian, “ how the
“ steps of my age are honoured ? Morni moves
“ forth, and the young meet him with reverence, and turn their eyes, with silent joy,
“ on his course *.”

* Lathmon.

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THE Jewish lawgiver, whose system of laws was in many respects accommodated to the circumstances of an early people, has thought proper to enforce the respect due to old age, by making it even the subject of a particular precept. "See that thou rise up before the hoary head, and honour the face of the old man *."

"I AM young," says the son of Barachel, "and ye are very old, wherefore I was afraid, and durst not shew you mine opinion. I said days should speak, and multitude of years teach wisdom †."

WHEN any of the Tartar nations have occasion to elect a khan or leader, they regard experience and wisdom more than any other circumstance; and for that reason they commonly prefer the oldest person of the royal family ‡. It is the same circumstance that, in

* Leviticus, chap. xix. ver. 32.

† Job, chap. xxxii.

‡ Histoire generale des voyages.

the infancy of government, has given rise to a senate or council of the elders, which is commonly invested with the chief direction and management of all public affairs *.

So inseparably connected are age and authority in early periods, that in the language of rude nations the same word which signifies an old man is generally employed to denote a ruler or magistrate †.

AMONG the Chinese, who, from their little intercourse with strangers, are remarkably attached to their ancient usages, the art of writing, notwithstanding their improvement in manufactures, is still beyond the reach of the vulgar. This people have accordingly preserved that high admiration of the advantages arising from long experience and obser-

* This was the case among the Jews.—Among the North Americans, see Charlevoix.—Among the ancient Romans the elders formed the senate, and were called Patres.

† In the language of the Arabs, see D'Arvieux trav. Arab.—This also is the case in the German and most of the modern languages of Europe.

vation, which we commonly meet with in times of ignorance and simplicity. Among them, neither birth, nor riches, nor honours, nor dignities, can make a man forget that reverence which is due to grey hairs; and we are told that the sovereign himself never fails to respect old age, even in persons of the lowest condition:

THE difference, in this particular, between the manners of a rude and polished nation may be illustrated from the following anecdote, concerning two Grecian states, which, in point of what is commonly called refinement, were remarkably distinguished from each other.

“ It happened, at Athens, during a public
 “ representation of some play, exhibited in
 “ honour of the commonwealth, that an old
 “ gentleman came too late for a place suitable
 “ to his age and quality. Many of the young
 “ gentlemen, who observed the difficulty and
 “ confusion he was in, made signs to him that
 “ they would accommodate him, if he came
 “ where they sat. The good man bustled
 “ through

“ through the croud accordingly; but when
 “ he came to the seats to which he was invited,
 “ the jest was to sit close, and, as he stood
 “ out of countenance, expose him to the
 “ whole audience. The frolic went round
 “ all the Athenian benches. But on those oc-
 “ casions there were also particular places
 “ assigned for foreigners: when the good
 “ man skulked toward the boxes appointed
 “ for the Lacedemonians, that honest people,
 “ more virtuous than polite, rose up all to a
 “ man, and with the greatest respect received
 “ him among them. The Athenians, being
 “ suddenly touched with a sense of the Spar-
 “ tan virtue and their own degeneracy, gave
 “ a thunder of applause; and the old man
 “ cried out, The Athenians understand what
 “ is good, but the Lacedemonians practise
 “ it *.”

* Notwithstanding that old men are commonly so much
 respected among savages, they have been in some cases put
 to death when so far advanced in years as to have lost the
 use of their faculties. This shows, that the estimation in
 which they are held does not proceed from a principle of
 humanity, but from a regard to the useful knowledge they
 are supposed to possess.

WE may easily imagine that this admiration and reverence which is excited by wisdom and knowlege, must in a particular manner affect the conduct of children with respect to their father. The experience of the father must always appear greatly superior to that of his children, and becomes the more remarkable, according as he advances in years, and decays in bodily strength. He is placed in a situation where that experience is constantly displayed to them, and where, being exerted for their preservation and welfare, it is regarded in the most favourable light. From him they learn those contrivances which they make use of in procuring their food, and the various stratagems which they put in practice against their enemies. By him they are instructed in the different branches of their domestic œconomy, and are directed what measures to pursue in all those difficulties and distresses in which they may be involved. They hear with wonder the exploits he hath performed, and the precautions he hath used to avoid the evils with which he was surrounded, or the address and dexterity he hath employed to extricate himself from those misfortunes which had befallen

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him; and, from his observation of the past, they are enabled to learn useful lessons of prudence, for the regulation of their future conduct and behaviour. If ever they depart from his counsel, and follow their own headstrong inclination, they are commonly taught by the event to repent of their folly and rashness, and are struck with new admiration of his uncommon penetration and foresight. They look upon him as a superior being, and imagine that the gifts of fortune are at his disposal. They dread his curse, as the cause of every misfortune; and they esteem his blessing of more value than the richest inheritance.

In the Iliad, when Phenix is sent on a message to Achilles, he bewails his misfortune in having no children of his own, and imputes it to the curse of his father, which he had incurred in his youth.

“ My sire with curses loads my hated head,

“ And cries, Ye furies! barren be his bed!

“ Infernal Jove, the vengeful fiends below,

“ And ruthless Proserpine confirm’d his vow *.

* Pope’s translation of the Iliad, book 9. l. 382.

“ AND

"AND Esau said unto his father, Hast thou
 "but one blessing, my father? Bless me, even
 "me also, O! my father. And Esau lift up
 "his voice and wept *."

To these observations we may add, that the authority of the father is confirmed and rendered more universal, by the force and influence of custom.

WE naturally retain, after we are old, those habits of respect and submission which we received in our youth; and we find it difficult to put ourselves upon a level with those persons whom we have long regarded as greatly our superiors. The slave, who has been bred up in a low situation, does not immediately, upon obtaining his freedom, lay aside those sentiments which he has been accustomed to feel. He retains for some time the idea of his former dependence; and, notwithstanding the change of his circumstances, is disposed to continue that respect and reverence which he owed to his master. We find, that the legislature,

* Genesis, chap. xxvii. ver. 38.

in some countries, has even regarded and enforced these natural sentiments. Among the Romans a freed man was, through the whole of his life, obliged to pay to his patron what was called "*obsequium et reverentia*;" consisting in attendance upon him on public occasions, and in showing him certain marks of honour and distinction. If ever he failed in the observance of these duties, he was thought unworthy of his liberty, and was again reduced to be the slave of that person to whom he had behaved in so unbecoming a manner*.

A SON, who has been accustomed from his infancy to serve and to obey his father, is in the same manner disposed for the future to continue that service and obedience. Even after he is grown up, and has arrived at his full strength of body, and maturity of judgment, he retains the early impressions of his youth, and remains in a great measure under the yoke of that authority to which he hath

* Vide Heineccii antiq. Roman. lib. 9. § 1. Dig. de op. lib. § 1. Inst. de cap. deminut. l. un. Cod. de ingrat. liber.

hitherto submitted. He shrinks at the angry countenance of his father, and trembles at the power of that arm whose severe discipline he has so often experienced, and of whose valour and dexterity he has so often been a witness. He thinks it the highest presumption to dispute the wisdom and propriety of those commands to which he hath always listened, as to an oracle, and which he hath been taught to regard as the infallible rule of his conduct. He is naturally led to acquiesce in that jurisdiction which he hath seen exerted on so many different occasions, and which he finds to be uniformly acknowledged by all the members of the family. In proportion to the severity and rigour with which he is treated, his habits of submission become the stronger, and his implicit obedience is esteemed the more indispensably necessary. He looks upon his father as invested by heaven with an unlimited power and authority over all his children; and imagines that, whatever they may suffer from his arbitrary conduct, their rebellion against him, or resistance to his will, would be the same species of impiety, as to call in question the authority of the Deity, or to quarrel with

those severe dispensations of Providence with which, in the government of the world, he is sometimes pleased to visit his creatures.

FROM these dispositions, which commonly prevail among the members of his family, the father can have no difficulty to enforce his orders, wherever compulsion may be necessary. In order to correct the depravity, or to subdue the unruly temper of any single child, he can make use of that influence which he possesses over the rest, who will regard the unnatural behaviour of their brother with horror and detestation, and be ready to contribute their assistance in reducing him to obedience, or in punishing his transgression.

In the history of early nations, and even of those which have made some advances in refinement, we meet with a great variety of facts to illustrate the nature and extent of that jurisdiction and authority which originally belonged to the father, as the head and governor of his family.

We

WE are told by Cæsar, that among the Gauls the father had the power of life and death over his children *; and there is reason to believe, that, among the ancient German nations, he was invested with the same unlimited jurisdiction †.

ACCORDING to the customs which took place among the early inhabitants of Arabia, it would seem, that, in like manner, the father was under no restraint in the administration and government of his family. When the sons of Jacob proposed to carry their brother Benjamin along with them into Egypt, and their father discovered an unwillingness to part with him, “ Reuben spake unto his father, “ saying, Slay my two sons, if I bring him not “ to thee: deliver him into my hand, and I “ will bring him to thee again ‡.” Moses appears to have intended that the father should not, in ordinary cases, be at liberty to take away the life of his children in private, as may

* Cæs. de bel. Gall. lib. 6.

† See Heineccius elem. jur. German.

‡ Genesis, chap. xlii. ver. 37.

be concluded from this particular institution, that a stubborn and rebellious son should be stoned to death before the elders of the city *. It was further enacted by this legislator, that a man might sell his daughter for a slave or concubine to those of his own nation, though he was not permitted to dispose of her to a stranger.

“ If a man sell his daughter to be a maid-servant, she shall not go out as the men-servants do.

“ If she please not her master, who hath betrothed her to himself, then shall he let her be redeemed; to sell her to a strange nation he shall have no power, seeing he hath dealt deceitfully with her †.

In the empire of Russia, the paternal jurisdiction was formerly understood to be altogether supreme and unlimited ‡. Peter the Great

* Deuteronomy, chap. xxi. ver. 18.

† Exodus, chap. xxi. ver. 7.

‡ Signon. de antiq. jur. civ. Roman. lib. 1. cap. 10.

appears to have been so little aware that the customs of his own country might differ from those of other nations, that in his public declaration to his clergy, and to the states civil and military, relative to the trial of his son, he appeals to all the world; and affirms, that, according to all laws, human and divine, and, above all, according to those of Russia, a father, even among private persons, has a full and absolute right to judge his children, without appeal, and without taking the advice of any person whatever*.

AMONG the Tartars, nothing can exceed the respect and reverence which the children usually pay to their father. They look upon him as the sovereign lord and master of his family, and consider it as their duty to serve him upon all occasions. In those parts of Tartary which have any intercourse with the great nations of Asia, it is also common for the father to sell his children of both sexes; and from thence the women and eunuchs, in the

* See Present State of Russia, published 1722.

harams and seraglios belonging to men of wealth and distinction in those countries, are said to be frequently procured*.

UPON the coast of Africa, the power of the father is carried to the most extensive pitch, and exercised with the utmost severity. It is too well known to be denied, that, in order to supply the European market, he often disposes of his own children for slaves; and that the chief part of a man's wealth is supposed to consist in the number of his descendants. Upon the slave coast, the children are accustomed to throw themselves upon their knees, as often as they come into the presence of their father†.

THE following account, given by Commodore Byron, may serve in some measure to show the spirit with which the savages of South America are apt to govern the members of their family.

* *Histoire generale des voyages*, tom. 9.—Chardin. tom. 1.

† *Ibid*, tom. 5. liv. 10. chap. 3.

"HERE," says he, "I must relate a little
 "anecdote of our christian Cacique. He and
 "his wife had gone off, at some distance from
 "the shore, in their canoe, when she dived
 "for sea-eggs; but not meeting with great
 "success, they returned a good deal out of
 "humour. A little boy of theirs, about three
 "years old, whom they appeared to be doat-
 "ingly fond of, watching for his father and
 "mother's return, ran into the surf to meet
 "them: the father handed a basket of sea-
 "eggs to the child, which being too heavy
 "for him to carry, he let it fall; upon which
 "the father jumped out of the canoe, and
 "and catching the boy up in his arms, dashed
 "him with the utmost violence against the
 "stones. The poor little creature lay motion-
 "less and bleeding, and in that condition was
 "taken up by the mother, but died soon af-
 "ter. She appeared inconsolable for some
 "time; but the brute his father shewed little
 "concern about it *."

THE exposition of infants, so common
 among a great part of the nations of antiquity,

* Narrative of the honourable John Byron.

was a consequence of this arbitrary power with which the father was invested. As he was at liberty to treat his children according to his will, so he was under no necessity of taking the burden of their maintenance. How shocking soever and barbarous this custom may appear to us, it obtained universally among the states of Greece, and was never abolished even by such of them as were most distinguished for their learning and politeness*.

ACCORDING to the laws and customs of the Romans, the father had anciently an unlimited power of putting his children to death, and of selling them for slaves. While they remained in his family, they were incapable of having any estate of their own, and whatever they acquired, either by their own industry, or by the donations of others, became immediately the property of their father. Though with

* Ælian mentions the Thebans alone as having made a law forbidding the exposition of infants under a capital punishment, and ordaining, that if the parents were indigent, their children, upon application to the magistrate, should be maintained and brought up as slaves. Ælian var. hist. lib. 2. cap. 7.

respect to every other person they were regarded as free, yet with respect to their father they were considered as in a state of absolute slavery and subjection; and they could enter into no contract, nor transact any deed of importance without his approbation and consent *.

IN one respect, the power of a father over his sons appears, among the ancient Romans, to have extended even farther than that of a master over his slaves. If upon any occasion a son had been sold by his father, and had afterwards obtained his freedom from the purchaser, he did not thereby arise to a state of

* Dion. Halicar. lib. vi. l. 11, Dig. de lib. et postum. § 3. Inst. per quas pers. cuiq. adquir. l. ult. Cod. de impub. et al. subst. l. 4. Dig. de judic. § 6. Inst. de inut. stip.

Upon the same principle a father might claim his son from any person, by the ordinary action upon property, lib. 1. § 2. Dig. de rei vind. If a son had been stolen from his father, the "actio furti" was given against the thief, lib. 14. § 13. l. 38. Dig. de furt. When children were sold by their father, the form of conveyance was the same which was used in the transference of that valuable property which was called "res mancipi," Cai. Inst. l. 6. 3.

independence,

independence, but was again reduced under the paternal dominion. The same consequence followed, if he had been sold and manumitted a second time; and it was only after a third purchase, that the power of his father was altogether dissolved, and that he was permitted to enjoy any real and permanent advantage from the bounty of his master.

THIS peculiarity is said to have been derived from a statute of Romulus, adopted into the laws of the twelve tables, and affords a sufficient proof that the Romans had anciently no idea of a child living in the family, without being considered as the slave of his father.*

IN those early ages, when this practice was first introduced, the Roman state was composed of a few clans, or families of barbarians, the members of which had usually a strong attachment to each other, and were at vari-

* This statute, which was afterwards transferred into the twelve tables, is thus handed down to us: "Endo liberis justis jus vitæ, necis venundandique potestas ei esto. Si pater filium ter venunduit, filius a patre liber esto." Ulp. frag. 10. 1.

ance with most of their neighbours. When a son therefore had been banished from his family by the avarice of his father, we may suppose that, as soon as he was at liberty, he would not think of remaining in a foreign clan, or of submitting to the hardships of procuring his food in a state of solitude, but that he would rather chuse to return to his own kindred, and again submit to that jurisdiction, which was more useful from the protection it afforded, than painful from the service and obedience which it required.

It is probable, however, that if in this manner a child had been frequently separated from the company of his relations, he would at length grow weary of returning to a family in which he was the object of so little affection, and in which he was treated with so much contempt. How long he would be disposed to maintain his former connections, and how often he would be willing to restore that property which his father had abandoned, seems, from the nature of the thing, impossible to ascertain. But whatever might be the

the conduct of the son, it seems to have been intended by the statute of Romulus, that after a third sale, the property of the father should be finally extinguished, and that he should never afterwards recover a power which he had exercised with such immoderate severity.

It is probable, however, that in this manner a child had been frequently separated from the company of his relations, he would at length grow weary of returning to a situation in which he was the object of dislike and aversion, and in which he was treated with harshness and contempt. How long he would be obliged to maintain his former connections, and how often he would be willing to resign them, which his father had abandoned, from the nature of the thing, is impossible to determine. But whatever might be the

SECTION

SECTION II.

The influence of the improvement of arts upon the jurisdiction of the father.

SUCH was the power which, in early times, appears to have been uniformly possessed by the head of a family. But the progress of a people in civilization and refinement has a natural tendency to limit and restrain this primitive jurisdiction. When different families are united in a larger society, the several members of which have an intimate correspondence with each other, it may be expected that this important branch of domestic government will begin to excite the attention of the public. The near relations of a family, who have a concern for the welfare of the children, and who have an opportunity of observing the manner in which they are treated, will naturally interpose by their good offices, and endeavour to screen them from injustice and oppression. The

abuses which are committed in particular cases, and which are known and represented with all their aggravating circumstances, will excite indignation and resentment, and will at length give rise to such regulations as are necessary for preventing the like disorders for the future.

THE improvements in the state of society, which are the effects of opulence and refinement, will at the same time dispose the father to behave with greater mildness and moderation in the exercise of his authority. As he lives in greater affluence and security, he is more at leisure to exert the social affections, and to cultivate those arts which tend to soften and humanize the temper. Being often engaged in the business and conversation of the world, and finding, in many cases, the necessity of conforming to the humours of those with whom he converses, he becomes less impatient of contradiction, and less apt to give way to the irregular sallies of passion. Being less occupied with the care of his own preservation, he enters with more delicate sensibility into the feelings of others, and be-
holds

holds their distresses and sufferings with greater sorrow and commiseration. He is more uniformly under the influence of that parental fondness which prompts him to submit to all the trouble that may be requisite in providing for his family, and possessed of that discretion which leads him to bear with the forwardness, the folly, and imprudence of his children, and to treat them, on all occasions, with a proper mixture of severity and indulgence.

ON the other hand, the advancement of arts and manufactures will contribute to undermine and weaken his power, and even during his life-time, to raise the members of his family to a state of freedom and independence.

IN those rude and simple periods, when men are chiefly employed in hunting and fishing, in pasturing cattle, or in cultivating the ground, the children are commonly brought up in the house of their father; and continuing in his family as long as he lives, they have no occasion to acquire any separate property, but depend entirely for subsistence

upon that hereditary estate, of which he is the sole disposer and manager. Their situation, however, in this, as well as in many other respects, is greatly altered by the introduction of commerce and manufactures. In a commercial country, a great part of the inhabitants are employed in such a manner as tends to disperse the members of a family, and often requires that they should live at a distance from each other.

THE children, in their early youth, are obliged to leave their home, in order to be instructed in those trades and professions by which it is proposed they should earn a livelihood, and afterwards to settle in those parts of the country which they find convenient for prosecuting their several employments. In consequence of this they are withdrawn, and in a great measure emancipated from their father's authority. They are now in a condition to procure a maintenance without having recourse to his bounty, and by their own labour and industry are sometimes advanced to wealth and opulence. They live in separate families of their own, of which they have the entire

entire direction; and being placed at such a distance from their father, that he has no longer an opportunity of observing and controuling their behaviour, their former habits are gradually laid aside and forgotten.

WHEN we examine the laws and customs of polished nations, we are confirmed in the truth of the foregoing remarks, and have reason to conclude, that, in most countries, the paternal jurisdiction has been reduced within narrower bounds, in proportion to the improvements of society.

THE Romans, who for several centuries were constantly employed in war, and for that reason gave little attention to the arts of peace, discovered more attachment to their barbarous usages than perhaps any other nation that arose to wealth and splendour. Their ancient practice, with respect to the power of the father, was therefore permitted to remain in the most flourishing periods of their government. The innovations in this particular which they afterwards made, having occurred in times of light and knowledge, are recorded with some degree

degree of accuracy, and deserve to be particularly considered, as they mark the progress of a great people in a branch of policy of the utmost consequence to society.

IN the history of this people, the first regulations in favour of children were intended to bestow upon them a privilege of acquiring property, independent of their father. During the free government of Rome, as war was the chief employment in which a Roman citizen thought proper to engage, and by which he had any opportunity of gaining a fortune, it appeared highly reasonable, that when he hazarded his person in the service of his country, he should be allowed to reap the fruit of his labour, and be entitled to the full enjoyment of whatever he had acquired. With this view, it was enacted by Julius and by Augustus Cæsar, that whatever was gained by a son, in the military profession, should be considered as his own estate, and that he should be at liberty to dispose of it at pleasure*.

* It was called "*peculium castrense*."

SOME time after, when the practice of the law had also become a lucrative profession, it was further established, that whatever a son acquired in the exercise of this employment, should in like manner become his own property, and should in no respect belong to the father*.

IN later times, when no employment was considered as too mean for the subjects of the Roman empire, the son became proprietor of what he could procure by the practice of the mechanical arts, and of what he obtained by the donation of any person whatever, though the "usufruct," or life-rent of those acquisitions, was, in ordinary cases, bestowed upon the father†.

It is uncertain at what time the Romans first began to limit the father in the power of

* Peculium quasi castrense.

† This was called "peculium adventitium," vid. l. 1. Dig. de bon. mal. l. 2. eod. l. 1. l. 4. l. 5. C. de bon. quæ liber, l. 6. eod.

selling his children for slaves. It appears, that before the reign of the emperor Dioclesian this privilege was entirely abolished, except in one singular case, in which it was permitted to remain to the latest periods of the empire. To prevent the exposition of infants, the father, if he happened to be in indigent circumstances, was permitted to sell his new-born children, who, at any time after, might be redeemed from the purchaser, by restoring the price which he had given *.

THE power of life and death over children appears to have been first subjected to any limitation in the reign of Trajan, and of Hadrian his successor, who interposed, in some particular cases, to punish the father when he had been guilty of any wanton exercise of his authority. In the time of the emperor Severus, the father was not allowed to put his children to death in private ; but, when they committed a crime of an atrocious nature, was encouraged to accuse them before a ma-

* L. 1. C. de pat. qui fil. distrax. l. 2. cod.

gistrate,

gistrate, to whom he was impowered, in that case, to prescribe the particular punishment which he chose to have inflicted. At length this part of his jurisdiction was finally abolished by the emperor Constantine, who ordained that a father who took away the life of his child should suffer the same punishment with those who were guilty of parricide †.

THESE were the principal steps by which the Romans endeavoured to correct this re-

† L. 3. C. de patr. potest. l. un. C. de his qui parent.

It has been supposed by some authors, that the power of exposing infants was sooner restrained than that of putting to death the children who had grown up in the family; because a father was much more likely to abuse his power in the former case than in the latter. It is believed that Romulus prohibited the exposition of male infants, and of the eldest female, unless they were judged to be monstrous, by two of the neighbours, called to determine the point. This regulation was adopted into the laws of the twelve tables; though it was said to have been ineffectual: so that nothing was more common, under the emperors, than the exposition of new-born children of either sex. See the treatise of Noodt, intitled *Julius Paulus*, and that of Binckershock, *De jure occidendi liberos*.

markable

markable part of their ancient jurisprudence. It was natural to begin with the reformation of those particulars in which the greatest abuses were committed, and from thence to proceed to others, which, however absurd in appearance, were less severely felt, and were less productive of disorder and oppression. It seldom happened that a father, though permitted by law, was so hardened to the feelings of humanity and natural affection, as to be capable of embruing his hands in the blood of his offspring; and accordingly no more than three or four instances of that nature are mentioned in the whole Roman history. He might oftener be reconciled to the less barbarous measure of selling his children, and of reaping a certain profit at the expence of their freedom. But the part of his prerogative which he would probably exert in the most arbitrary manner, was that which related to the maintenance of his family, and the management of that property which had been procured by their industry and labour. And thus we find, that the interpositions of the Roman legislature were directed first to secure the property, afterwards the liberty, and

and last of all the life and personal safety of the children *.

WE may observe, in general, that wherever polygamy is established, as the affection of the father towards his children is thereby diminished, his power over them is exercised with greater severity, and is therefore more apt to remain in its full force, notwithstanding the advancement of the people in civilization and refinement. We are informed by Aristotle, that among the Persians, in his time, the power of a father over his children was in every respect as absolute as that of a master over his slaves †.

IN the empire of China, the same circumstance, together with that noted aversion which the people discover to every sort of innovation, has also enabled the father to main-

* Vid. l. ult. Cod. de pat. potest.

† Aristot. Ethic. lib. 6, cap. 10.

tain a great part of his original jurisdiction *. The father is said to have here the privilege of selling his children whenever he thinks proper; but if he intends to put them to death, it is necessary that he should bring them before a magistrate, and publicly accuse them. At the same time, whatever be the crime of which they are accused, they are held to be guilty, without any other proof but the bare assertion of the father †.

THE custom of exposing infants was not restrained in China till very lately. Father Noel, in a relation presented to the general of the Jesuits, in 1703, observes, that at Peking a number of children were usually dropt or exposed every morning in the streets. "As Peking is excessively populous," continues this pious and catholic father, "and those

* Though in China a man is not allowed to have more wives than one, yet he may have any number of concubines; which, in the point under consideration, must have nearly the same effect. Le Comte's memoirs of China.

† Pere Le Comte's memoirs of China.

"who

"who have more children than they can
 "maintain do not scruple to drop them in
 "places of public resort, where they either
 "die miserably, or are devoured by beasts;
 "one of our first cares is to send, every morn-
 "ing, catechists into the different parts of
 "that great city, in order to baptize such of
 "those children as are not dead. About
 "twenty or thirty thousand children are ex-
 "posed yearly, and of these our catechists
 "baptize about three thousand; and had we
 "twenty or thirty catechists, few of the chil-
 "dren in question would die unbaptized *."

In those European nations which have
 made the greatest improvements in commerce
 and manufactures, the highest liberty is
 usually enjoyed by the members of every
 family. The children are no farther sub-
 jected to the father than seems necessary for
 their own advantage. When they come to
 be of age, they have the full enjoyment

* Travels of the Jesuits, compiled from their letters,
 translated by Lockman, vol. 1. p. 448.

and disposal of any separate property which they happen to acquire; and, even during their father's life, they sometimes obtain for their maintenance a fixed provision out of the family estate.

It can hardly be doubted that these regulations, which tend to moderate the excessive and arbitrary power assumed by the head of a family, are supported by every consideration of justice and utility. The opinion of Sir Robert Filmer, who founds the doctrine of passive obedience to a monarch upon the unlimited submission which children owe to their father, seems, at this day, unworthy of the serious refutation which it has met with, and could only have gained reputation when men were just beginning to reflect upon the first principles of government. To say that a king ought to enjoy absolute power because a father has enjoyed it, is to defend one system of oppression by the example of another.

THE interest of those who are governed is the chief circumstance which ought to regulate the powers committed to a father, as well

as those committed to a civil magistrate; and whenever the prerogative, either of the one or of the other, is further extended than is requisite for this great end, it immediately degenerates into usurpation, and is to be regarded as a violation of the natural rights and liberties of mankind.

At the same time it appears, that the tendency of a commercial age is rather towards the opposite extreme, and may possibly raise the members of a family to greater independence than is consistent with good order, and with a proper domestic subordination. As, in every country, the laws enforced by the magistrate are in a great measure confined to the rules of justice, it is evident that further precautions are necessary to guard the morals of the inhabitants; and that for this purpose the authority of parents ought to be such, as may enable them to form the manners and direct the education of their children, to restrain the irregularities of youth, and to instil those principles which will render them useful members of society.

RANKS IN SOCIETY.

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CHAP. III.

Of the authority of a chief over the members of a tribe or village.

SECTION I.

The origin of a chief, and the degrees of influence which he is enabled to acquire.

HAVING considered the primitive state of a family, during the life of the father, we may now examine the changes which happen in their situation, upon the death of this original governor, and the different species of authority to which, after that period, they are commonly subjected.

WHEN the members of a family become too numerous to be maintained and lodged all in the same house, some of them are under the necessity of leaving it, and providing themselves with a new habitation. The sons, hav-

ing arrived at the age of manhood, and being disposed to marry, are led by degrees to have a separate residence, where they may live in a more comfortable manner. They build their huts very near one to another, and each of them forms a distinct family; of which he assumes the direction, and which he endeavours to supply with the means of subsistence. Thus the original society is gradually enlarged into a village or tribe; and, according as it is placed in circumstances which favour population, and render its condition prosperous and flourishing, it becomes proportionably extensive, and is subdivided into a greater multiplicity of branches.

FROM the situation of this early community it is natural to suppose, that an uncommon degree of attachment will subsist between all the different persons of which it is composed. As the ordinary life of a savage renders him hardy and robust, so he is a stranger to all those considerations of utility, by which, in a polished nation, men are commonly induced to restrain their appetites, and to abstain from violating the possessions of each other. Different

ferent clans or tribes of barbarians are therefore disposed to rob and plunder one another, as often as they have an opportunity of doing it with success; and their reciprocal inroads and hostilities are the source of continual animosities and quarrels, which are prosecuted with a degree of fury and rancour suitable to the temper and dispositions of the people. Thus the members of every single clan are frequently at variance with all their neighbours around them; and are obliged to be constantly upon their guard, in order to repel the numerous attacks to which they are exposed, and to avoid that barbarous treatment, which they have reason to expect, if they should fall under the power of their enemies. As they are divided from the rest of the world, so they are linked together by a sense of their common danger, and by a regard to their common interest. They are united in all their pastimes and amusements, as well as in their serious occupations; and when they go out upon a military enterprize, they are no less prompted to show their friendship for each other, than to gratify their common passions of enmity and resentment. As they have been

brought up together from their infancy, and have no intercourse with those of a different community, their affections are raised to a greater height, in proportion to the narrowness of that circle to which they are confined. As the uniformity of their life supplies them with few occurrences, and as they have no opportunity of acquiring any great variety of knowledge, their thoughts are the more fixed upon those particular objects which have once excited their attention; they retain more steadily whatever impressions they have received, and become the more devoted to those entertainments and practices with which they have been familiarly acquainted.

HENCE it is, that a savage is never without difficulty prevailed upon to abandon his family and friends, and to relinquish the sight of those objects to which he has been long familiar. To be banished from them is accounted the greatest of all misfortunes. His cottage, his fields, the faces and conversation of his kindred and companions, incessantly recur to his memory, and prevent him from relishing any situation where these are wanting. He
clings

clings to those well-known objects, and dwells upon all those favourite enjoyments which he has lost. The poorer the country in which he has lived, the more wretched the manner of life to which he has been accustomed, the loss of it appears to him the more insupportable. That very poverty and wretchedness, which contracted the sphere of his amusements, is the chief circumstance that increaseth his attachment to those few gratifications which it afforded, and renders him the more a slave to those particular habits which he hath acquired. Not all the allurements of European luxury could bribe a Hottentot to resign that coarse manner of life which was become habitual to him; and we may remark, that the "maladie du pays," which has been supposed peculiar to the inhabitants of Switzerland, is more or less felt by the inhabitants of all countries, according as they approach nearer to the ages of rudeness and simplicity *.

As

* Mr. Kolben relates, that one of the Dutch governors at the Cape of Good Hope brought up an Hottentot according to the fashions and customs of the Europeans,

As those tribes that inhabit the more uncultivated parts of the earth, are almost continually at war with their neighbours, and are obliged to be always in a posture of defence,

teaching him several languages, and instructing him fully in the principles of the Christian religion, at the same time cloathing him handsomely, and treating him in all respects as a person for whom he had an high esteem, and whom he designed for some beneficial and honourable employment. The governor afterwards sent him to Batavia, where he was employed under the commissary for some time, till that gentleman died; and then he returned to to the Cape of Good Hope. But having paid a visit to the Hottentots of his acquaintance, he threw off all his fine cloaths, bundled them up, laid them at the governor's feet, and desired he might be allowed to renounce his Christianity, and to live and die in the religion and customs of his ancestors; only requesting that he might be permitted to keep the hanger and collar which he wore, in token of his regard to his benefactor. While the governor was deliberating upon this, scarce believing the fellow to be in earnest, the young Hottentot took the opportunity of running away, and never afterwards came near the Cape, thinking himself happy that he had exchanged his European dress for a sheep-skin, and that he had abandoned the hopes of preferment for the society of his relations and countrymen.

The English East India company made the like experiment upon two young Hottentots, but with no better success.

so they have constant occasion for a leader to conduct them in the various military enterprises in which they are engaged.

It may be remarked, that wherever a number of people meet together in order to execute any measures of common concern, it is convenient that some person should be appointed to direct their proceedings, and prevent them from running into confusion. It is accordingly a general regulation, which appears to be uniformly adopted in all countries, that every public assembly should have a president, invested with such a degree of authority as is suitable to the nature of the business committed to their care. But in no case is a regulation of this kind so necessary, as in the conduct of a military expedition. There is no situation in which a body of men are so apt to run into disorder, as in war; where it is impossible that they should co-operate, and preserve the least regularity, unless they are united under a single person, who is empowered to direct their movements, and to superintend and controul their several operations.

As the members of a family have been usually conducted by the father in all their excursions of moment, they are naturally disposed, even when their society becomes more enlarged, to continue in that course of action to which they have been accustomed; and, after they are deprived of this common parent, to fall under the guidance of some other person, who appears next to him in rank, and possesses the greatest share of their esteem and confidence.

SUPERIORITY in strength, courage, and other personal accomplishments, is the first circumstance by which any single person is raised to be the leader of a tribe, and by which he is enabled to maintain his authority.

IN those rude periods, when men live by hunting and fishing, they have no opportunity of acquiring any considerable property; and there are no distinctions in the rank of individuals, but those which arise from their personal qualities, either of mind or body.

THE

THE strongest man in a village, the man who excels in running, in wrestling, or in handling those weapons which they make use of in war, is possessed of an evident advantage in every contest that occurs, and is thereby exalted to superior dignity. In their games and exercises he is generally victorious, and becomes more and more distinguished above all his companions. When they go out to battle, he is placed at their head, and occupies that station which is held of the greatest importance. His exploits and feats of activity are viewed with pleasure and admiration; and he becomes their boast and champion in every strife or contention in which they are engaged. The more they have been accustomed to follow his banner, they contract a stronger attachment to his person, and discover more readiness to execute those measures which he thinks proper to suggest. They imagine that his greatness reflects honour upon the society to which he belongs, and are disposed to magnify his prowess with that fond partiality which they entertain in favour of themselves. According as he advances in reputation, he acquires more weight
in

5

in their debates, and is treated with greater respect and deference. They are no less afraid of incurring his displeasure than eager to distinguish themselves in his eye, and, by their valour and fidelity, to procure marks of his peculiar approbation and esteem.

AMONG the natives in some parts of the continent of South America it is customary, in their military expeditions, to make choice of that person for their leader, who is superior to all his companions in bodily strength; and this point is usually determined according to the burden which he is able to carry*.

BUT

* *Nouveaux voyages aux Indes Orientales*, tom. 3. Upon the same principle, the captain of an expedition is frequently chosen from the number of wounds he has received in battle. *Ibid.* tom. 1.

Montaigne gives an account of three West Indian savages, who came to Roan at the time that Charles the Ninth was there. "The king discoursed a long time with them. "They were shown our manner of living, our pomp, and "the several beauties of that great city. Some time after, "a gentleman asked what it was that struck them most "among the various objects they had seen. They an-

BUT when a people have begun to make improvements in their manner of fighting, they

“swered, Three Things. First, they thought it very
 “strange, that so many tall men, wearing beards, armed,
 “and standing round the king (these in all probability
 “were his Swiss guards) should submit voluntarily to a
 “child; and that they did not rather choose one of those
 “tall men to govern them.” Montaigne’s essays, p. 169.
 Paris, 1604. 8vo.

It has even been remarked, that all animals which live in herds or flocks are apt to fall under the authority of a single leader of superior strength or courage. Of this a curious instance is mentioned by the author of Commodore Anson’s voyage. “The largest sea-lion,” says he, “was the master of the flock; and, from the number of females he kept to himself, and his driving off the males, was stiled by the seamen the bashaw. As they are of a very lethargic disposition, and are not easily awakened, it is observed, that each herd places some of their males at a distance in the manner of centinels, who always give the alarm whenever any attempt is made either to molest or approach them, by making a loud grunting noise like a hog, or snorting like a horse in full vigour. The males had often furious battles with each other, chiefly about the females; and the bashaw just mentioned, who was commonly surrounded by his females, to which no other male dared to approach, had acquired that distinguished pre-eminence by many bloody contests, as was evident from the numerous scars visible in all parts of his body.”

In

they are soon led to introduce a variety of stratagems, in order to deceive their enemy, and are often no less indebted to the art and address which they employ, than to the strength or courage which they have occasion to

In a herd of deer, the authority of the master-buck, founded upon his superior strength, is not less conspicuous.

The following relation is given by the Count du Forbin, in his memoirs, during his residence at Siam.

“ Je vis dans ce voyage,” says he, “ une prodigieuse quantité de singes de différentes espèces ; le pays en est tout peuplé. Ils se tiennent assez volontiers aux environs de la rivière, et vont ordinairement en troupes : chaque troupe a son chef, qui est beaucoup plus grand que les autres. Quand la marée est basse, ils mangent de petits poissons que l’eau a laissés sur le rivage. Lorsque deux différentes troupes se rencontrent, ils se rapprochent les uns des autres, jusques à une certaine distance, ou ils paroissent faire halte : ensuite les gros macous, ou chefs des deux bandes, s’avancent jusqu’à trois ou quatre pas, se font des mines, et des grimaces, comme s’ils s’entreparloient : ensuite faisant tout à coup, volte-face, ils vont rejoindre chacun la troupe dont ils sont chefs, et prennent des routes différentes. Au retour de la marée, ils se perchent sur des arbres, jusqu’à ce que le pays soit sec. Je prenois souvent plaisir d’observer tout leur manège : j’en vis un jour une douzaine qui s’épluchoient

“ au

to exert. Thus, military skill and conduct are raised to higher degrees of estimation ; and the experience of a Nestor, or the cunning of an Ulysses, being found more useful than the brutal force of an Ajax, is frequently the source of greater influence and authority.

THIS, as has been formerly observed, is the foundation of that respect and reverence which among early nations is commonly paid to old men. From this cause also it happens, that the leader of a barbarous tribe is often a person advanced in years, who, retaining still his bodily strength, has had time to acquire experience in the art of war, and to obtain a distinguished reputation by the atchievements which he hath performed.

THE effect of these circumstances, to raise and support the authority of a leader or chief,

“ au soleil : une femelle qui étoit en rût, s’ecarta de la
 “ troupe, et se fit suivre par un mâle ; le gros *macou*, qui
 “ s’en apperçut le moment apres, y courut ; il ne put rat-
 “ trapper le mâle qui se sauva à toutes jambes ; mais il ra-
 “ mena la femelle à qui il donna en presence des autres,
 “ plus de cinquante soufflats, comme pour la châtier de
 “ son incontinence.” Tom. 1. p. 194. Amsterdam, 1736.

is sufficiently obvious, and is fully illustrated by the history of all nations, not only the most rude and barbarous, but those also which are advanced in civilization and refinement.

“ AND the people and princes of Gilead
“ said one to another, What man is he that
“ will begin to fight against the children of
“ Ammon? He shall be head over all the in-
“ habitants of Gilead.

“ Now Jephthah the Gileadite was a mighty
“ man of valour, and he was the son of an
“ harlot, and Gilead begat Jephthah.

“ AND Gilead's wife bare him sons; and
“ his wife's sons grew up, and they thrust
“ out Jephthah, and said unto him, Thou
“ shalt not inherit in our father's house;
“ for thou art the son of a strange woman.

“ THEN Jephthah fled from his brethren,
“ and dwelt in the land of Tob; and there
“ were gathered vain men to Jephthah, and
“ went out with him.

“ AND

“ AND it came to pass, in process of time,
“ that the children of Ammon made war
“ against Israel.

“ AND it was so, that when the children of
“ Ammon made war against Israel, the elders
“ of Gilead went to fetch Jephthah out of the
“ land of Tob.

“ AND they said unto Jephthah, Come, and
“ be our captain, that we may fight with the
“ children of Ammon.

“ AND Jephthah said unto the elders of Gi-
“ lead, Did ye not hate me, and expel me out
“ of my father's house? and why are ye come
“ unto me now, when ye are in distress?

“ AND the elders of Gilead said unto Jeph-
“ thah, Therefore we turn again to thee now,
“ that thou mayest go with us, and fight
“ against the children of Ammon, and be
“ our head over all the inhabitants of Gilead.

“ AND Jephthah said unto the elders of Gi-
“ lead, If ye bring me home again to fight
“ against

“ against the children of Ammon, and the
 “ Lord deliver them before me, shall I be
 “ your head ?

“ AND the elders of Gilead said unto Jeph-
 “ thah, The Lord be witness between us, if
 “ we do not so, according to thy words.

“ THEN Jephthah went with the elders of
 “ Gilead ; and the people made him head and
 “ captain over them : and Jephthah uttered
 “ all his words before the Lord in Mizpeh *.

WHEN Saul was afterwards appointed king
 over the Jewish nation, we find that the pro-
 phet Samuel recommends him to the people,
 merely upon account of his superior stature,
 and the advantages of his person.

“ AND when he stood among the people, he
 “ was higher than any of the people from his
 “ shoulders and upward.

* Judges, chap. x. ver. 18. chap. xi. ver. 1, &c.

* AND Samuel said to all the people, See
 “ye him whom the Lord hath chosen, that
 “there is none like him among all the peo-
 “ple? And all the people shouted, and said,
 “God save the king *.”

IN like manner, when the family of this
 prince was deprived of the crown, the minds
 of the people were prepared for that revolu-
 tion by the opinion which they entertained of
 the superior valour and military accomplish-
 ments of his successor.

“AND it came to pass, when David was
 “returned from the slaughter of the Philistine,
 “that the women came out of all the cities
 “of Israel, singing and dancing, to meet
 “king Saul, with tabrets, with joy, and with
 “instruments of music.

“AND the women answered one another as
 “they played, and said, Saul hath slain his
 “thousands, and David his ten thousands *.”

AFTER mankind have fallen upon the expe-
 dient of taming and pasturing cattle, in order

* 1 Samuel, chap. x. ver. 23, 24.

† 1 Samuel, chap. xviii. ver. 6, 7.

to render their situation more comfortable, there arises another source of influence and authority which was formerly unknown to them. In their herds and flocks they frequently enjoy considerable wealth, which is distributed in various proportions, according to the industry or good fortune of different individuals; and those who are poor become dependent upon the rich, who are capable of relieving their necessities, and affording them subsistence. As the pre-eminence and superior abilities of the chief are naturally exerted in the acquisition of that wealth which is then introduced, he becomes of consequence the richest man in the society; and his influence is rendered proportionably more extensive. According to the estate which he has accumulated, he is exalted to a higher rank, lives in greater magnificence, and keeps a more numerous train of servants and retainers, who depend upon him for their maintenance, and are therefore obliged in all cases to support his power and dignity*.

THE

* The admiration and respect derived from the possession of superior fortune, is very fully and beautifully illustrated

THE authority derived from wealth, as it is greater than that which arises from mere personal accomplishments, so it is also more stable and permanent. Extraordinary endowments, either of mind or body, can operate only during the life of the possessor, and are seldom continued for any length of time in the same family. But a man usually transmits his fortune to his posterity, and along with it all the means of creating dependence which he enjoyed. Thus the son, who inherits the estate of his father, is enabled to maintain an equal rank, while at the same time he preserves all the influence acquired by the former proprietor; which is daily augmented by the power of habit, and becomes more considerable as it passes from one generation to another.

HENCE that regard to genealogy and descent which we often meet with among those who have remained long in a pastoral state. From the simplicity of their manners, they are not apt to squander or alienate their possessions; and the representative of an ancient

illustrated by the eloquent and ingenious author of the
 "Theory of Moral Sentiments."

family is naturally disposed to be ostentatious of a circumstance which contributes so much to increase his power and authority *.

For the same reason the dignity of the chief, which in a former period was frequently elective, is now suffered more commonly to pass from father to son by hereditary succession. As the chief possesses the largest estate, so he represents the most powerful family in the tribe; a family from which all the rest are vain of being descended, and the superiority of which they have been uniformly accustomed to acknowledge. He enjoys not only that rank and consequence which is derived from his own opulence, but seems intitled to the continuance of that respect and submission which has been paid to his ancestors; and it rarely happens that any other person, though of superior abilities, is capable of supplanting him, or of diverting the course of that influ-

* All the Tartars, of whatever country or religion, have an exact knowledge of the tribe from which they are descended, and carefully preserve the remembrance of it from one generation to another. *Histoire generale des voyages*, tom. 9. liv. 3. chap. 3. p. 33.

ence which has flowed so long in the same channel, and has become so irresistible.

THE acquisition of wealth in herds and flocks, which is made by a tribe of shepherds, does not immediately give rise to the idea of property in land. The different families of a tribe are accustomed to feed their cattle promiscuously, and have no separate possession or enjoyment of the ground which is made use of for that purpose. Having exhausted one field of pasture, they proceed to another; and when at length they find it convenient to move their tents, and change the place of their residence, it is of no consequence who shall succeed them, and occupy the spot which they have relinquished.

“Is not the whole land before thee?” says Abraham to Lot his kinsman; “Separate thyself, I pray thee, from me: if thou wilt take the left hand, then I will go to the right; or if thou depart to the right hand, then I will go to the left*.”

IF,

* Genesis, chap. xiii. ver. 9.—The wild Arabs change their residence every fortnight, or at most every month.

IF, during their temporary abode in any one part of the country, they cultivate a small piece of ground, this also, like that which is employed in pasture, is naturally possessed in common. The management of it being considered as an extraordinary work, in which it is necessary that they should all unite and assist one another, it is natural to suppose, that the crop which they have raised will belong to the whole society, and will be distributed among them according to their various necessities*.

AMONG the natives of the island of Borneo, it is customary, in time of harvest, that every family of a tribe should reap so much grain as is sufficient for their maintenance; and the remainder is laid up by the public, in case of any future demand†. Similar practices have probably taken place in most countries,

D'Arvieux's travels. The same wandering life is also led by the Tartars; see Professor Gmelin's travels into Siberia, p. 111.

* See Dr. Stuart's dissertation concerning the antiquity of the English constitution, part 1. sect. 3.

† Modern Universal History, vol. 9.

when

when the early inhabitants first applied themselves to the cultivation of the earth *.

BUT the settlement of a village in some particular place, with a view to the further improvement of agriculture, has a tendency to abolish this ancient community of goods, and to produce a separate appropriation of land-estates. When they have made some proficiency in the various branches of husbandry, they have no longer occasion to exercise them by the joint deliberation and counsel of the whole society. They grow weary of acting in concert with each other, by which they are subjected to continual disputes concerning

* Suevorum gens est longe maxima et bellicosissima Germanorum omnium. Hi centum pagos habere dicuntur: ex quibus quotannis singula millia armatorum, bellandi causa, suis ex finibus educunt. Reliqui domi manent: præ se atque illis colunt. Hi rursus invicem anno post in armis sunt: illi domi remanent. Sic neque agricultura, neque ratio, neque usus belli intermittitur. Sed privati et separati agri apud eos nihil est; neque longius anno remanere uno in loco, intolendi causa, licet; neque multum frumento, sed maximam partem lacte atque pecore vivunt, multumque sunt in venationibus. Cæsar. de bell. Gall. lib. 4. cap. 1.

the distribution and management of their common property ; while every one is desirous of employing his labour for his own advantage, and of having a separate possession, which he may enjoy according to his inclination. Thus, by a sort of tacit agreement, the different families of a village are led to cultivate their lands apart from each other, and are naturally supposed to have a title to the respective produce arising from the labour that each of them has bestowed. The longer any person has been accustomed to possess the same estate, and the greater improvement he has made upon it, his connection with it appears the more firmly established ; and he is at length understood to have an exclusive privilege of continuing his possession for the future, and of reaping all the fruits which the subject is capable of producing.

THE additional influence which the captain of a tribe or village is enabled to derive from this change of their circumstances, may be easily imagined. As the land which they cultivate is at first possessed in common by the whole tribe, it falls of course under the manage-

management of the chief, who superintends their labour, and assumes the privilege of distributing the produce among the several members of the community. When it is afterwards found convenient to separate their possessions, he also regulates the division of their estates, and assigns to every family such a portion of ground as he thinks sufficient for their maintenance. He retains for his own use an extent of territory proportioned to the rank and dignity which he is obliged to support; and while he allows the other individuals to appropriate the remainder, he subjects them to such limitations and conditions as render them still dependent upon him, for the continuance of their possession. Thus, by enlarging his domain in proportion to the number of his domestics, and by maintaining in some measure the supreme disposal of the landed property, he establishes an almost unlimited authority over all the members of the community*.

* Among the negroes upon the Gold Coast there is no private property in land. Each individual must annually obtain the consent of the chief before he has liberty to cultivate

tivate so much ground as is necessary for his subsistence. At the same time, when any person has been allowed by the chief to cultivate a particular spot, it would seem that he has the exclusive privilege of reaping the crop that is produced. This may be considered as the first step towards an appropriation of land estates. See *Histoire generale des voyages*, tom. 5. liv. 9. chap. 7. § 5.

In many other parts of the African coast, where the land is not fully appropriated by individuals, but remains in the hands of the public, the chief assumes in the same manner a power of regulating and limiting the portions which are occasionally cultivated by the members of their respective tribes. See *Histoire generale des voyages*, tom. 4. liv. 7. chap. 13. p. 203.

Among those tribes which inhabit the interior part of Africa, between Sierra Leona and the river Cestos, the chief, or king, is understood to be proprietor of all the land within his dominions. Each family must address themselves to him or his officers, to petition that a portion of land may be assigned for their maintenance; and this request must be renewed by the son, notwithstanding that the estate has been solemnly granted to the father. *Modern Universal History*, vol. 17. p. 322.

SECTION II.

*Of the powers with which the chief of a rude tribe
is commonly invested.*

THE powers which belong to this early magistrate, who is thus exalted to the head of a rude society, are such as might be expected from the nature of his office, and from the circumstances of the people over whom he is placed.

He is at first the commander of their forces, and has merely the direction of their measures during the time of an engagement. But as he advances in authority, his prerogative is gradually extended; and he assumes more power in the management of all their military concerns. From his peculiar situation, he is more immediately led to attend to the defence of the society, to suggest such precautions as may be necessary for that purpose, and to point out those enterprizes which

he thinks it would be expedient for them to undertake. By degrees they are accustomed to follow his opinion, in planning as well as in conducting their several expeditions. Warmly attached to his person, and zealous to promote his interest, they are disposed to accompany him for his own sake, and to espouse his quarrel upon every occasion. "The Germans," says Tacitus, "esteem it an inviolable duty to defend their chief, to maintain his dignity, and to yield him the glory of all their exploits. The chiefs fight for victory: the attendants, only for the chief*." As the leader of a tribe affords protection and security to all its members, so he expects that they should make a proper return for these good offices by serving him in war. To refuse this service would not only expose them to his resentment, but be regarded as a mark of infidelity or cowardice that would disgrace them for ever in

* "Illum defendere, tueri, sua quoque fortia facta gloriæ ejus assignare, præcipuum sacramentum est. Principes pro victoria pugnant; comites pro principe." Tacit. de mor. German.

the opinion of all their kindred. When on the other hand, they are willing to fulfil their duty, by appearing in the field as often as they are required, and by discharging with honour the trust that is reposed in them, they are admitted to be the friends and companions of the chief; they are entertained at his table, and partake in all his amusements; and after the improvement of agriculture has given rise to the appropriation of land, they obtain the possession of landed estates, proportioned to their merit, and suited to their rank and circumstances.

As the chief is, by his office, engaged in protecting and securing the members of his tribe from the hostile attacks of their neighbours, so he endeavours to prevent those disorders and quarrels which may sometimes arise among themselves, and which tend to weaken and disturb the society. When a dispute or controversy happens among those who belong to different families, he readily interposes by his good offices, in order to bring about a reconciliation between the parties; who

who at the same time, if they choose to avoid an open rupture, may probably be willing to terminate their difference by referring it to his judgment. In order to render his decisions effectual he finds it necessary, at first, to employ persuasion and intreaty. When such references have afterwards become more frequent, and when those persons by whom they are made become more afraid of disobliging him, he ventures to make use of authority; and at length, obtaining a full and complete power of enforcing his sentences, he is established as their judge, and invested with supreme jurisdiction in all cases, both civil and criminal*.

THE

* Of this gradual progress of jurisdiction there are many vestiges to be found even in the practice of polished nations. Among the Romans, the civil judge had no power to determine a law-suit, unless the parties had previously referred the cause to his decision, by what was called the contract of *litis-contestatio*. In England, at this day, no criminal trial can proceed, until the culprit, by his *pleading*, acknowledges the authority of the court. At the same time, while those people have endeavoured in appearance to preserve their antient usages, they have been under a necessity of making a ridiculous circuit, in order

THE same influence, by which he acquires these branches of power, is gradually extended to all the important transactions and deeds of the society. According to many of the systems of religion which have prevailed in the unenlightened parts of the world, mankind have supposed that the Supreme Being is endowed with passions and sentiments resembling their own, and views the extraordinary talents and abilities of their leader with that approbation and esteem which these qualities never fail to excite in themselves. The same person whom they look upon as the first of mortals, is naturally imagined to be the peculiar favourite of Heaven, and is therefore regarded as the most capable to intercede in their behalf, to explain the will of the Deity, and to point out the most effectual means to avert his anger, or to procure his favour.

to avoid the inconveniencies with which these usages were attended. At Rome, a party who refused to come into court might be dragged *obtorso collo*; and by the English law, the defendant who *stands mute*, is subjected to the *peine fort et dure*, which is equal to the highest of all punishments.

Thus

Thus we find that, in early periods, a chief has frequently been raised to be the high-priest of his tribe, and to have the principal direction and superintendence of the public worship established in the country *.

* In a very early period of the sacred history we read of Melchizedek, who was king of Salem, and priest of the most high God. Genesis, chap. xiv. ver. 18.

In profane writings, the same circumstance is frequently taken notice of.

“ ——— Egressi veneramur Apollinis urbem.

“ Rex Anius, rex idem hominum Phœbique sacerdos ;

“ Vittis et sacra redimitus tempora lauro,

“ Occurrit : veterem Anchisen adgnoscat amicum.”

Eneid. lib. 3. ver. 80.

In Egypt the kings were all consecrated to the priesthood. In most of the Grecian cities the care of divine worship was committed to the chief magistrates. At Sparta the kings took upon them the office of priests of Jupiter; and every public sacrifice, for the safety of the commonwealth, was offered by them; for it was the common opinion, that their prayers were more acceptable to the gods than those of other men. See Pott. antiq. of Greece, vol. 1. book 2. chap. 3.

Among the Romans, the king appears to have enjoyed the office of “ pontifex maximus,” and to have had the direction of religious matters. See Rosin. antiq. Rom. In the empire of the Kaliffs, the supreme ecclesiastical and civil powers were also united in the same person.

FROM

FROM this principle, when carried to a greater height, men have been disposed to deify a particular hero; to imagine that, in another state of existence, he continues to watch over the interest of his people, and possesses superior power, either to alleviate their misfortunes, or to promote their happiness and prosperity*.

As,

* We may remark, that the same dispositions which gave rise to hero-worship, have led mankind to regard their princes, while alive, as sprung from a heavenly original, and even sometimes to pay them that adoration which is due to the Supreme Being.

It is in conformity to this ancient mythology, that Racine puts the following address into the mouth of Phædra.

“ Noble et brillant auteur d’une illustre famille,
 “ Toy dont ma mere osoit se vanter d’être fille,
 “ Qui peut-être rougis du trouble où tu me vois,
 “ Soleil, je te viens voir pour la dernière fois.”

Racine’s Phædre, act 1. scene 3.

The Yncas of Peru derived themselves, in like manner, from the sun. The king of Loango is worshipped as a god by his subjects. They give him the name or title usually bestowed upon the Deity; and they address him for rain or fruitful seasons, with even greater solemnity than other nations do their gods. Modern Universal History, vol. 16. p. 300, &c.

M

Among

As, in conducting the affairs of a community, in the management of what relates to peace or war, and in the administration of justice, various abuses are apt to be committed, and many more may still be apprehended, the people are gradually led, by experience and observation, to introduce particular statutes or laws, in order to correct or ascertain their practice for the future. Even this legislative power, by which all the other branches of government are controuled and directed, is naturally assumed by the chief, after he has acquired considerable influence and authority. When the members of his tribe have become in a great measure dependent upon him, with regard to their property, they are in no condition to dispute his commands, or to refuse obedience to those ordinances which he issues at pleasure, in order to model or establish the constitution of the society.

Among the Hurons and Natchez, the chiefs carry the name of the Sun, from whom they are supposed to be descended, and whom they are understood to represent upon earth. *Journal historique d'un voyage de l'Amerique, par Charlevoix, let. 30. Nouveaux voyages aux Indes Orientales, tom. 1. p. 42.*

FROM

FROM these observations we may form an idea of that constitution of government which is naturally introduced among the members of a rude tribe or village. Each of the different families, of which it is composed, is under the jurisdiction of the father, and the whole community is subjected to a chief or leader, who enjoys a degree of influence and authority according to the superior abilities with which he is endowed, or the wealth which he has been enabled to acquire.

THE rudest form of this government may be discovered among the Indians of America. As these people subsist, for the most part, by hunting or fishing, they have no means of obtaining so much wealth as will raise any one person greatly above his companions. They are divided into small independent villages, in each of which there is a chief, who is their principal leader in war. He bears the name of that particular tribe over which he presides; and in their public meetings he is known by no other. His authority, though greater in some villages than in others, does not appear in any of them to be very consider-

able. If he is never disobeyed, it is because he knows how to set bounds to his commands. Every family has a right to name an assistant to the chief; and the several heads of families compose an assembly, or "council of the elders," which is accustomed to deliberate upon all matters of public importance *.

EACH

* "L'autorité des chefs s'étend proprement sur ceux de leur tribu, qu'ils considèrent comme leurs enfans."—"Leur pouvoir ne paroît avoir rien d'absolu, et il ne semble pas qu'ils aient aucune voye de coaction pour se faire obéir en cas de résistance, on leur obéit cependant, et ils commandent avec autorité; leur commandement a force de prières, et l'obéissance qu'on leur rend, paroît entièrement libre."—"Bien que les chefs n'aient aucune marque de distinction et de supériorité, qu'on ne puisse pas le distinguer de la foule par les honneurs qu'on devoit leur rendre, à l'exception de quelques cas particuliers, on ne laisse pas d'avoir pour eux un certain respect; mais, c'est surtout dans les affaires publiques que leur dignité se soutient. Les conseils s'assemblent par leurs ordres; ils se tiennent dans leurs cabanes, à moins qu'il n'y ait une cabane publique, destinée uniquement pour les conseils, et qui est comme une maison de ville; les affaires se traitent en leur nom; ils président à toutes sortes d'assemblées; ils ont une part considérable dans les festins, et dans les distributions générales."—"De peur que les chefs n'usurpassent une autorité trop grande, et ne se rendissent trop absolus, on les

"a

EACH individual is allowed, in ordinary cases, to "take up the hatchet," as it is called, or make war upon those who have offended him. Enterprizes of moment, however, are seldom undertaken without the concurrence of the assembly. Each family has a jurisdiction over its own members. But the members of different families are at liberty to settle their differences in what manner they please; and the chief or council interfere only as mediators, or as arbiters; unless upon the commission of those enormous and extraordinary crimes which excite the general indignation, and which, from a sudden impulse of resentment, are instantly punished with the utmost severity *.

FROM

"a comme bridés, en leur donnant des adjoints, qui partagent avec eux la souveraineté de la terre, et se nomment *Agoianders* comme eux."—"Après les *Agoianders*, vient le *Sénat*, composé des vieillards, ou des anciens, nommés dans leur langue *Agokstenha*: le nombre de ces sénateurs n'est point déterminé: chacun a droit d'entrer au conseil pour y donner son suffrage." P. Lahitau mœurs de sauvages Américains, 4to. à Paris, 1724. tom. 1. p. 472—475.

* Ibid. tom. 2. p. 167.—"La décision des affaires criminelles appartient immédiatement à ceux de la cabane

M 3

"des

FROM the accounts which have been given of the wandering tribes of shepherds in different parts of the world, it would seem that their government is of the same nature, though the power of their leader is further advanced,

“ des coupables, par rapport aux coupables même, quand
 “ quelqu’un d’une cabane en a tué un autre de la même
 “ cabane : comme on suppose qu’ils ont droit de vie et de
 “ mort les uns sur les autres, le village semble ne prendre
 “ nul intérêt au désordre qui est arrivé. — L’affaire change
 “ bien de nature, si le meurtre a été commis à l’égard d’une
 “ personne d’une cabane différente, d’une autre tribu, d’une
 “ autre village, et encore plus d’une nation étrangère ; car
 “ alors cette mort funeste intéresse tout le public ; chacun
 “ prend fait et cause pour le défunt, et contribue en quelque
 “ chose pour refaire l’esprit (c’est leur expression) aux parens
 “ aigris par la perte qu’ils viennent de faire ; tous s’inté-
 “ ressent aussi pour sauver la vie au criminel, et pour
 “ mettre les parens de celui-ci à couvert de la vengeance
 “ des autres, qui ne manqueroit pas d’éclater tôt ou tard,
 “ si on avoit manqué à faire la satisfaction prescrite, dans
 “ des cas semblables, par leurs loix, et par leurs usages.” —
 “ Il est des occasions où le crime est si noir, qu’on n’a pas
 “ tant d’égard pour garantir le meurtrier, et où le conseil,
 “ usant de son autorité suprême, prend soin d’en ordonner
 “ la punition.” — Ibid. tom. i. p. 486, 487, 490, 495.

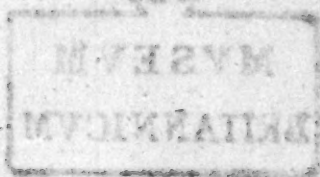
See also the view which is given of the state of government among the Americans, by P. Charlevoix *Journal historique d’un voyage de l’Amérique*, let. 13. 18.

according

according to the degrees of wealth which they enjoy. In proportion to the extent of his herds and flocks, the chief is exalted above all the other members of the tribe, and has more influence in directing their military operations, in establishing their forms of judicial procedure, and in regulating the several branches of their public administration. Thus the captain or leader of a tribe among the Hottentots, who have made but small progress in the pastoral life, and among the wild Arabs, who have seldom acquired considerable property, appears to have little more authority than among the savages of America*. The great riches, on the

“The Arabian tribes, though they have been for many ages under the Turkish yoke, are rarely interrupted, either in what may concern the course of justice, or in the succession to those few offices and dignities that belong properly to themselves.—Every *Dou-war* (i. e. village, or encampment) therefore may be looked upon as a little principality, over which it is usual for that particular family, which is of the greatest name, substance, and reputation, to preside. However, this honour does not always lineally descend from father to son; but, as it was among their predecessors the Numidians, when the heir is too young, or subject to any infirmity, then they make choice of the uncle, or some

“ other



the other hand, which are frequently acquired by those numerous bands of shepherds inhabiting the vast country of Tartary, have rendered the influence of the chief proportionably extensive, and have bestowed upon him an almost unlimited power, which commonly remains in the same family, and is transmitted from father to son like a private inheritance*.

THE ancient German nations, described by Cæsar and Tacitus, may be ranked in a middle situation between these extremes†.

But

“other relation, who, for prudence and wisdom, is judged
“to be the fittest for that employ. Yet, notwithstanding
“the despotic power which is lodged in this person, all
“grievances and disputes are accommodated in as amicable a manner as possible, by calling to his assistance
“one person or two out of each tent: and as the offender
“is considered as a brother, the sentence is always given
“on the favourable side; and even in the most enormous
“crimes, rarely any other punishment is inflicted than
“banishment” Shaw’s travels, chap. 4. p. 310.

See Kolben’s history of the Cape of Good Hope. —
Histoire generale des voyages, 4to. tom. 5, 6. Ibid. tom. 9.
—Montesquieu, Esprit de loix, liv. 18. chap. 19.

† “Reges ex nobilitate; duces ex virtute sumunt. Nec
“regibus infinita aut libera potestas; ex duces exemplo
“potius



But when they sallied forth from their native forests, and invaded the several provinces of the

“potius quam imperio, si prompti, si conspicui: si ante
 “aciem agans, admiratione præfunt.” Tacitus de mor.
 “German. § 7. “De minoribus rebus principes consul-
 “tant, de majoribus omnes. Ita tamen, ut ea quoque,
 “quorum penes plebem arbitrium est, apud principes per-
 “tractentur.—Ut turbæ placuit, confidunt armati. Si-
 “lentium per sacerdotes, quibus tum et coercendi jus est,
 “imperatur. Mox rex vel principes, prout ætas cuique,
 “prout nobilitas, prout decus bellorum, prout facundia
 “est, audiuntur, auctoritate audendi magis quam jubendi
 “potestate.” Ibid. § 11. “Licet apud concilium accu-
 “sare quoque, et discrimen capitis intendere. Distinctio
 “pœnarum ex delicto, proditores et transfugas arboribus
 “suspendunt. Ignavos, et imbelles, et corpore infames,
 “ceno ac palude, injecta insuper crate, mergunt.—Eli-
 “gantur in iisdem consiliis et principes, qui jura per pa-
 “gos vicosque reddunt. Centeni singulis ex plebe comi-
 “tes, consilium simul et auctoritas adfunt.” Ibid. § 12.
 “Quum bellum civitas aut inlatum defendit, aut insert;
 “magistratus, qui ei bello præsent, ut vitæ necisque ha-
 “beant potestatem, deliguntur. In pace, nullus est com-
 “munis magistratus; sed principes regionum atque pa-
 “gorum inter suos jus dicunt, controversiasque minuunt—
 “ubi quis ex principibus in concilio dixit se ducem fore;
 “qui sequi velint, profiteantur; consurgunt ii, qui et
 “causam et hominem probant, suumque auxilium polli-
 “centur; atque ab multitudine conlaudantur; qui ex iis
 “secuti non sunt, in desertorum ac proditorum numero
 “ducuntur;

the Roman empire, they were soon led to a farther improvement of their circumstances, and, by the example of the people whom they had subdued, were excited to apply themselves with attention to agriculture. Different heads of families, or petty chiefs, settled in particular parts of the country, and acquired estates in land as well as in moveables. By their activity in plundering the enemy, and by their industry in cultivating the ground, they procured a great number of captives, and gradually extended their possessions.

THE retainers of every family were, in all probability, at first maintained about the house of their leader, by whom they were protected,

“ducuntur; omniumque iis rerum postea fides derogatur.” Cæsar, de bell. Gall. lib. 6. § 23.

It is clear from the accounts of Cæsar and Tacitus, that the Germans, while they remained in their native country, were not altogether strangers to the cultivation of the ground. But they all led a wandering life, and seem to have had no idea of a fixed residence; which is a sufficient proof that they derived their chief subsistence from their flocks, and regarded agriculture as only a secondary employment.

and

and whose interest and dignity they endeavoured upon every occasion to support. When they became so numerous as to render their living in this manner inconvenient, he assigned them separate farms, which he allowed them to cultivate for their own emolument, upon condition that they should continue to serve him in war, and fulfil the several duties which were formerly understood to be incumbent upon them as members of the family.

As these tenants depended upon their master for subsistence, it cannot be doubted that they would be entirely subject to his authority. They were liable to forfeit their possessions, if ever they refused to follow his banner in any of those military expeditions in which he had occasion to employ them. He exercised over them an absolute and supreme jurisdiction, in punishing their offences, as well as in deciding their differences; and he assumed a power of making such general regulations as he thought proper, for removing disorders, and preventing future disputes*.

THUS,

* See *Nouvel examen de l'usage general des fiefs en France*.—All the authors who have written on the feudal system

THUS, upon the ruins of the western empire, there arose in every province particular chiefs or barons, who lived in separate districts, independent of one another, and each of whom procured a number of vassals or military tenants, and became great and powerful in proportion to the estate which he possessed. This appears to have been the first step toward the introduction of that system of feudal government which was gradually established and brought to perfection in most of the countries of Europe. We shall afterwards have occasion to point out the circumstances by which the independence of these barons was destroyed; and to observe in what manner they were frequently reduced under subordination one to another, till at length a single person was exalted to be the feudal superior, or sovereign, of an extensive society:

system agree, that the barons exercised this absolute power over their vassals, although very different conjectures have been advanced concerning the time and manner of its establishment. These particulars will be considered in the following discourse.

WHEREVER

WHEREVER we meet with independent tribes of rude people, who have acquired considerable property in land, there is reason to conclude that their chiefs possess the same degree of influence, and are accustomed to exercise a similar authority over their vassals or dependents. This is probably the foundation of the great power enjoyed by many of the chiefs or nobles upon the coast of Africa, and in several parts of the East Indies. In these countries it would seem that the people are immediately subject to the jurisdiction of their leader, and that they are obliged to attend him in war, whenever their service is demanded.

It is not, however, till at length a single person was exalted to be the feudal superior, or sovereign, of an extensive society, that the barons exercised this absolute power over their vassals, although very different conjectures have been advanced concerning the time and manner of its establishment. These particulars will be considered in the following discourse.

CHAP.

WHEREVER

C H A P. IV.

Of the power of a sovereign over an extensive society.

S E C T I O N I.

The constitution of government arising from the union of different tribes or villages.

THE improvement of agriculture, as it increases the quantity of provisions, and renders particular clans or tribes more numerous and flourishing, so it obliges them at length to send out colonies to a distance, who occupy new seats wherever they can find a convenient situation, and are formed into separate villages, after the model of those with which they were formerly acquainted. Thus, in proportion as a country is better cultivated, it comes to be inhabited by a greater number of distinct societies, whether derived from the same or from a different original, agreeing in their manners, and resembling each other in their government and institutions.

THESE

THESE different communities being frequently at war, and being exposed to continual invasions from their neighbours, are in many cases determined, by the consideration of their mutual interest, to unite against their common enemies, and to form a variety of combinations, which are more or less permanent, according as they are influenced by particular circumstances. Those people who have found the advantage of joining their forces in one expedition, are naturally disposed to continue the like association in another, and by degrees are encouraged to enter into a general defensive alliance. The intercourse which they have maintained in war, is not entirely dissolved even in time of peace. Though originally strangers to each other, yet, having many opportunities of assembling in their military enterprizes, they cannot fail to contract an acquaintance, which becomes the source of their future correspondence. They have frequent opportunities of meeting in their common sports and diversions. The leading men of different villages entertain one another with rustic hospitality and magnificence: intermarriages

termarriages begin to take place between their respective families; and the various connections of society are gradually multiplied and extended*.

FROM a simple confederacy of this kind, an aristocratical government is naturally established. As every village, or separate community, is subjected to its own leader, it is to be supposed that, in their joint measures, the several chiefs, when united together, will enjoy an influence correspondent to that which they have separately acquired over their own particular dependents; and that the frequent meeting and deliberation of those distinguished personages will at length give rise to a regular assembly, invested with power and authority to determine in all the important affairs of the society.

* Though these associations, for mutual defence, become more frequent and permanent among tribes of husbandmen, who have a fixed residence in the neighbourhood of each other, yet they are also formed occasionally among hordes of shepherds, during their temporary abode in any particular country; of which many instances are to be found in Tartary, upon the Coast of Guinea, and in the history of the ancient Germans.

THE same circumstances, however, which influence the members of a single clan to be guided by a particular person in their smaller expeditions, render a similar expedient yet more necessary in conducting a numerous army, composed of different clans, often disagreeing in their views, and little connected with each other. Some one leader is therefore entrusted with the supreme command of their united forces; and the same influence, by which he was first raised to that dignity, enables him frequently to maintain it during life, and even in many cases to render it hereditary. In this manner a great chief or king is placed at the head of a nation, and claims, by degrees, the inspection and superintendence of various branches of the public administration.

BUT, notwithstanding the rank and pre-eminence enjoyed by this primitive sovereign, his authority at first is far from being considerable. The chiefs, who retain all their original influence over their respective tribes, and who are jealous of a superior, are disposed to allow him no higher prerogatives than are requisite

to

to answer the purposes for which he was created. Though in a day of battle his power may extend over the whole people, yet on other occasions it is for the most part limited to his own particular clan; and though in the field his orders are not to be disputed, yet in the council public measures are determined by the majority of voices, and the king is little more than the president of the meeting. After the conclusion of an expedition, when the different clans have retired to their separate places of abode, they are almost entirely withdrawn from his influence, and live under the protection of their several leaders, to whose jurisdiction and authority they are totally subjected.

SUCH are the uniform accounts which have been given by travellers concerning the government of those kingdoms, either upon the coast of Africa, or in the countries belonging to Asia, in which a number of distinct tribes or villages are but imperfectly united together*.

* *Histoire generale des voyages*, 4to. tom. 4. liv. 8. chap. 3. § 4.—*Ibid.* tom. 5. liv. 9. chap. 7. § 8.—*Ibid.* liv. 10. chap. 2. 6.—See Calendar's *Collection of voyages*, vol. 1. p. 67, 68.

IN the *Odyſſey*, Alcinous, king of the Pheacians, ſays expreſſly, “ There are twelve chiefs “ who ſhare dominion in the kingdom, and I “ am the thirteenth.” He is accordingly obliged to call a council of his nobles, before he can venture to furniſh Ulyſſes with a ſingle ſhip, in order to transport him to his native country*.

* Δωδεκα γὰρ κατὰ δῆμον ἀριπρεπεὲς βασιλῆες
 Ἀρχοὶ κραινοῦσι, τριſκαίδεκατος δ' ἐγὼ αὐτός.

Odyſſ. lib. 8. ver. 390.

In the iſland of Ithaca the power of the chiefs, who were accuſtomed to deliberate in council concerning the public affairs of the nation, is equally conſpicuous.

“ ’Twas ſilence all, at laſt Ægyptius ſpoke ;
 “ Ægyptius, by his age and ſorrows broke :—
 “ Since great Ulyſſes fought the Phrygian plains,
 “ Within theſe walls inglorious ſilence reigns.
 “ Say then, ye peers ! by whoſe commands we meet ?
 “ Why here once more in ſolemn council ſit ?
 “ Ye young, ye old, the weighty cauſe diſcloſe :
 “ Arrives ſome meſſage of invading foes ?
 “ Or ſay, does high neceſſity of ſtate
 “ Inſpire ſome patriot ; and demand debate ?
 “ The preſent ſynod ſpeaks its author wiſe ;
 “ Aſſiſt him, Jove ! thou regent of the ſkies !”

Pope's Odyſſ. book 2. l. 19.

So

So far as we have any records of the early states of Greece, they appear to have been all originally under a similar government. The country of Attica, in particular, is said to have been peopled by colonies which were brought, under different leaders, from Egypt and some of the neighbouring countries, and which formed a number of distinct tribes or villages, independent of one another†. The first association among these little societies appears to have happened in the time of Cecrops, the founder of Athens, who became their general, and who made a considerable reformation in their police and manners. They were afterwards more intimately united in the reign of Theseus, when the nobility or principal inhabitants of the several towns or villages were persuaded to settle at Athens, and composed a senate, or national council, which exercised an authority over the whole country, and obtained the chief direction of religious matters, together with the privilege of electing

* See Thucydides's history of the Peloponnesian war, book 1. 2.

magistrates, and of teaching and dispensing the laws*.

THE resemblance between this and the ancient Roman constitution is sufficiently obvious. The foundation of that mighty empire was laid by a few tribes of barbarians, originally distinct from one another, who at first inhabited different quarters of the city, and who appear to have lived under the jurisdiction of their respective chiefs †. This was, in

* Vid. Sigon. de Repub. Atheniens. lib. 1. cap. 2.—Thucyd. hist. lib. 2.—Plutarch. in vit. Thesei.

The nobles who formed the great council or senate at Athens are said to have been formerly members of separate councils, which were accustomed to assist the respective chiefs in the particular towns or villages to which they belonged. By the dissolution of these smaller assemblies in the time of Theseus, and by the formation of a common national council, the inhabitants of the country were incorporated in one society.

† See the account which is given of the “forum originis,” by the author of the Historical Law-tracts; whose acute and original genius has been employed in uniting law with philosophy, and in extending the views of a gainful profession to the liberal pursuits of rational entertainment. Historical Law-tracts, chap. Of courts.

all probability, the origin of that connection between the poor and the rich, which remained in after ages, and which has been commonly ascribed to the policy of Romulus *. We are told that all the lower people were attached to particular patrons of rank and distinction, and that every patrician had a number of clients, who owed him respect, submission, and service, and were, on the other hand, intitled to his advice and protection. Of these leading men, who had originally an extensive influence over the people, was formed the first senate, or council of the sovereign, whose concurrence was requisite in every step of importance, who solely determined in what related to peace and war, and who, upon a

* The *Clients* at Rome were bound to pay their *Patron's* debts, to ransom his person from captivity, and to portion his daughter. "Erat autem hæc inter eos officiorum vicissitudo, ut clientes ad collocandas senatorum filias de suo conferrent, in æris aliqui dissolutionem gratuitam pecuniam erogarent, et ab hostibus in bello captos redimerent." Dionys. Halicarn. de Romulo, sect. 10. The analogy between this obligation and that of the modern feudal vassals, with regard to the superior, is observed in a late "Enquiry concerning the practice of juries," part 2.

vacancy of the throne, assumed the privilege of naming a successor to the royal dignity *.

BUT the most noted examples of that species of government, which arises from the first union of different tribes, occurs in the early history of the modern kingdoms of Europe. It has already been observed, that when the German nations subdued the western empire, the land was divided among a variety of chiefs, or heads of families, who distributed a part of their estates among their dependents and retainers, over whom they exercised an almost unlimited authority. These chiefs were altogether independent of each other, and possessed a degree of rank and power, in proportion to the number of vassals which they were able to maintain. Their possessions, which they had obtained by lot, or occupied without opposition, were entirely at their disposal, and descended to their posterity by hereditary suc-

* Vide Dion. Halicarn. lib. 3.—Polyb. lib. 6.—Hein. Antiq. Rom.—See also M. de Montesq. *Esprit de Loix*, liv. 11. chap. 12.

cession.

cession. They acknowledged no superior, to whom they were liable in military services, or to whose jurisdiction they were subject; and their property was such as has been called "allodial," in contradistinction to that feudal right which was enjoyed by their vassals or military tenants*.

THE

* It must be acknowledged, that what is mentioned above is contrary to the opinion commonly received concerning the origin of feudal tenures. The antiquaries who first turned their attention to researches on this subject, those of France in particular, living under an absolute monarchy, appear to have been strongly prepossessed by the form of government established in their own times; and their conjectures with regard to the early feudal institutions, under the pompous appellation of proofs, have been, for the most part, followed implicitly by later writers. They suppose that when any of the German nations settled in a Roman province, the king seized upon the whole conquered lands: that, retaining in his own possession what was sufficient to maintain the dignity of the crown, he distributed the remainder among the principal officers of his army, to be held precariously upon condition of their attending him in war: and that these chiefs afterwards bestowed part of their estates upon their dependents or followers, under similar conditions of military service. This account appears liable to many objections. 1st, It may be asked, how the king came to possess so much power as would enable him to acquire the entire property

THE inhabitants of a province, or of a large tract of country, were, at the same time, affo-

property of the conquered lands? The accounts given by Cæsar and Tacitus of the German nations represent their princes as possessed of very limited authority. 2dly, Upon the supposition that all the conquered lands were originally held of the king, during pleasure, his authority immediately upon the settlement of these nations must have been rendered altogether despotic. But this is contradicted by the whole history of those periods, which represents the nobility of each feudal kingdom as having early enjoyed great independence, and a degree of opulence, in many cases, very little inferior to that of the monarch. 3dly, M. Bouquet has collected a variety of facts from which it seems reasonable to conclude that, in France, during the kings of the first and second race, the principal nobility were in possession of allodial estates. (See "Le droit public de France éclairci par les monumens de l'antiquité.") Sir Henry Spelman hath also made it appear probable that, in England under the Saxon princes, the *Thanes*, or nobility possessed the landed estates in full property; while the lower people held their lands precariously, upon condition of performing services to the proprietor. (See Spelman's treatise of feuds and tenures by knights service.) 4thly, It is true that in the feudal kingdoms the nobility were early understood to be under an obligation of going out to war as often as the public interest required it. But this was a duty which they owed to the community as citizens, not to the king as vassals; and their attendance was required, not by an order of the monarch, but in consequence of a determination by the national assembly, of which they themselves were the constituent members.

ciated

ciated for their mutual defence; and were united under a king or general, who conducted them in their common expeditions, and whose rank and dignity, like that of every other baron, was supported by his own private demesnes. In all measures of importance he was obliged to act with the concurrence of an assembly, composed of the leading men in the country. Such were the ancient Parliaments of France, the Cortes in Spain, and the Wittenagemote in England. With their advice he determined what enterprizes should be undertaken; and, according to their resolutions, every baron was obliged, under severe penalties, to appear in the field at the head of his vassals. In these assemblies it was usual to divide the plunder which had been gained by the army, to make such regulations as were intended to be effectual over the whole community, and to decide, in the last resort, the law-suits which arose between the members of different baronies*.

BUT,

* Thus, in France, when Clovis proposed to make war upon the Wisigoths, we are informed that he addressed himself

BUT, though the original constitution of these modern kingdoms was at first so similar to that of the ancient Greeks and Romans, the different situation of the people very soon gave rise to a very remarkable diversity in the progress of their government.

THE Roman and Greek states were originally of small extent, and the inhabitants being collected in one city, were led in a short time to cultivate an acquaintance: the police, which was easily established in such a limited territory, put a stop to those divisions so prevalent

himself to the national assembly. "It is with grief," says he, "that I see these Arians have occupied a part of Gaul. Let us go in the strength of the Lord, and strip them of their possessions." This discourse was received with universal applause, and immediately the army marched toward Poitou in quest of the enemy. The additions which were made to the Salique law, in the reign of this prince and some of his successors, appear also to have been laid before the same public assembly, and to have received their approbation. *Lettres historiques sur le parlement.*—Boulainv. hist. of the ant. parl. of France.—See *histoire de France* par M. L'abbé Velly.

See also Mr. Hume's history of England.—Dr. Robertson's history of the reign of Charles V.

among

among neighbouring tribes of barbarians. Those who belonged to different families were soon restrained from injuring one another, and lived in security under the protection of the government. By conversing together almost every day, their ancient prejudices were eradicated; and their animosities, being no longer cherished by reciprocal acts of hostility, were allowed to subside, and left no traces behind. The whole people, being early engaged in violent struggles with the petty states around them, were obliged to hold an intimate correspondence, and acquired an high sense of public interest. In proportion as they were thus incorporated in a larger community, they lost all inferior distinctions. The members of each particular tribe had no reason to maintain their peculiar connections, or to preserve their primitive attachment to their respective chiefs. The power of the nobility therefore, which depended upon those circumstances, was quickly destroyed; and the monarch, who remained at the head of the nation without a rival to counterbalance his influence, had no difficulty in extending

his

his influence over the whole of his dominions*.

THE more extensive states of Europe, erected by the Gothic nations, were placed in a different situation. The numerous inhabitants, scattered over a wide and often inaccessible country, were for a long time prevented from having much intercourse with each other, and from correcting their ancient rude and barbarous customs. The several tribes who had entered into an alliance were not thereby induced to lay aside their former jealousies and feuds; and though sometimes united under a king in common expeditions, they were no less frequently divided by their private quarrels, and excited to follow their several ba-

* For this reason, the ancient jurisdiction and authority of the chiefs is not very distinctly marked in the early history of those nations; among whom it was in a great measure destroyed before they were possessed of historical records.

At Rome, so early as the reign of Servius Tullius, the practice of convening the people according to tribes was almost entirely laid aside; and the public assemblies were held in such a manner, that every individual was classed according to the wealth which he possessed.

rons in the commission of mutual inroads and depredations. Thus every kingdom was composed of a great variety of parts, loosely combined together, and for several centuries may be regarded as a collection of small independent societies, rather than as one great political community. The slow advances which were afterwards made by the people towards a more complete union, appear to have been productive of that feudal subordination which has been the subject of so much investigation and controversy.

IN those times of violence and disorder, when different families were so frequently at war, and lying in wait for opportunities to plunder and oppress one another, the proprietors of small estates were necessarily exposed to many hardships and calamities. Surrounded by wealthier and more powerful neighbours, by whom they were invaded from every quarter, and held in constant terror, they could seldom indulge the hope of maintaining their possessions, or of transmitting them to their posterity. Conscious therefore of their weakness, they endeavoured to provide for their
future

future safety, by soliciting the aid of some opulent chief, who appeared most capable of defending them ; and, in order to obtain that protection which he afforded to his ancient retainers or vassals, they were obliged to render themselves equally subservient to his interest, to relinquish their pretensions to independence, to acknowledge him as their leader, and to yield him that homage and fealty which belonged to a feudal superior.

THE nature of these important transactions, the solemnities with which they were accompanied, and the views and motives from which they were usually concluded, are sufficiently explained from the copies or forms of those deeds which have been collected and handed down to us. The vassal promised in a solemn manner to submit to the jurisdiction of the superior, to reside within his domain, and to serve him in war, whether he should be engaged in prosecuting his own quarrels, or in the common cause of the nation. The superior, on the other hand, engaged to exert all his power and influence in protecting the vassal, in defending his possessions,

fections, or in avenging his death, in case he should be assassinated. In consequence of these mutual engagements, the vassal, by certain symbols expressive of the agreement, resigned his property, of which he again received the investiture from the hands of the superior*.

IN this manner the smaller barons were, at different times, subjected to their opulent neighbours; the number of independent proprietors was gradually diminished, their estates

* *Fidelis Deo propitio ille, ad nostram veniens presentiam suggessit nobis, eo quod propter simplicitatem suam, causas suas minimè possit prosequi, vel admallare, clementiæ regni nostri petiit, ut illustri vir ille omnes causas suas in vice ipsius, tam in pago, quam in palatio nostro admallandum prosequendūque recipere deberet, quod in præfenti per fistucam eas eidem visus est commendasse. Propterea jubemus, ut dum taliter utriusque decrevit voluntas, memoratus ille vir omnes causas lui, ubicumque prosequi vel admallare deberet, ut unicuique pro ipso, vel hominibus suis, reputatis conditionibus, et directum faciat, et ab aliis similiter in veritate recipiat. Sic tamen quamdiu amborum decrevit voluntas. Formul. Marculfi 21.—Vid. ibid. Formul. 13.*

See also *L'Esprit de Loix*, liv. 31. chap. 8.

were united and blended together in one barony, and large districts were brought under the dominion of a few great lords, who daily extended their influence and authority in proportion to the number of their vassals.

THE progress of government in the several countries of Europe was such as might be expected from the influence of those changes which I have mentioned. Whenever an independent proprietor had resigned his property, and agreed to hold his land by a feudal tenure, he was no longer intitled to a voice in the national assembly, but was obliged to follow the direction of the superior to whom he was liable in homage and fealty. We find, accordingly, that in France the public assembly was at first extremely numerous, comprehending all the different heads of families in the nation. By degrees it was afterwards reduced in number, and confined to persons of superior opulence and rank, who were called to a separate conference with the king *.

* Vide Observat. sur l'histoire de France, par M. de Mably.

As the nobles were thus advancing in wealth and splendor, so they continued for several centuries to extend their influence, and to increase their power and privileges. The gradual advancement of the aristocracy in these kingdoms has accordingly been remarked by every historian who has given any general view of their political constitution.

It is probable, however, that the erection of these great baronies, by the voluntary submission of different allodial proprietors, contributed to ascertain the right of the vassal, and to limit that property with which the superior was originally invested. The ancient military tenants, who were the kindred and relations of the superior, and who had received their lands as a pure gratuity, never thought of demanding to be secured in the future possession; and while they continued to support the interest of the family, which they looked upon as inseparable from their own interest, they had no apprehension that they should ever be deprived of their estates. Thus, according to the more accurate ideas of later times, they were

merely tenants at will, removable at the pleasure of their master.

BUT it was not to be expected that those who submitted to a foreign superior, and who gave up their allodial property as an equivalent for the protection which was promised them, would repose so much confidence in a person with whom they had no natural connection, or be willing to hold their lands by the same precarious tenure. They endeavoured, by express stipulations, to prevent the arbitrary conduct of the master; and, according as they found themselves in a condition to insist for more favourable terms, they obtained a grant of their estates, for a certain limited time, for life, or to their heirs. By these grants the right of property, instead of being totally vested in the superior, came to be, in some measure, divided between him and his vassals*.

THE

* When land was held by a vassal during life, or for a shorter period, it was commonly called a Benefice; but when it was allowed to descend to the heirs of the vassal, it received the appellation of a Fief.

This

THE same circumstances, by which the estates of different proprietors were united in one barony,

This alteration gave rise to what were called the *incidents* of the feudal tenures. The antient vassals, who were the kindred of the superior, and received their lands as a pure gratuity, might be removed by him at pleasure, or subjected to whatever burdens he thought proper to impose upon them. There was no occasion therefore to specify any particular cases in which they might forfeit their possessions. But when persons of a different family agreed to hold their lands of a superior upon account of the protection which he promised them, they obtained a more permanent enjoyment of their fiefs, and were entitled to remain in the possession according to the terms of their original agreement. Various limitations however were still made upon the right of the vassal; and, from the nature of the feudal connection, he became liable to several forfeitures and penalties, which produced an occasional profit to the superior.

1. Thus when the vassal died without heirs; when he violated his duty by the commission of a crime, or by neglecting to perform the usual service; in either of these cases his lands returned to the superior. The emolument arising from this forfeiture, or termination of the fief, was called an *escheat*.

2. When a person was admitted to hold a fief, he engaged by an oath to fulfil the duties of *homage* and *fealty* to the superior. Even after fiefs became hereditary, this ceremony was repeated upon every transmission of the feudal right by succession; so that while the heir of a vas-

rony, contributed afterwards to incorporate these larger districts, and to unite all the inhabitants

sal neglected to renew the engagement, he was not intitled to obtain possession, and the superior, in the mean time, drew the rent of the lands. Hence the incident of *non-entry*.

3. Though the heir of a vassal might claim a renewal of the feudal investiture, this was understood to be granted in consideration of his performing military service. When by his nonage, therefore, the heir was incapable of fulfilling that condition, the superior himself retained the possession of the lands; at the same time that he was accustomed, in that case, to protect and maintain his future vassal. This produced the incident of *wardship*.

4. Upon the death of a vassal, it was usual for the representative of his family to make a present to the superior, in order to obtain a ready admittance into the possession of the lands. When fiefs became hereditary, it was still found expedient to procure by means of a bribe, what could not easily be extorted by force; and the original arbitrary payment was converted into a regular duty, under the name of *relief*.

5. From the original nature of the feudal grants, the vassal could have no title to sell, or give away to any other person, the lands which he held merely as a tenant, in consideration of the service which he was bound to perform. But when fiefs had been granted to heirs, and when of consequence the right of the vassal approached somewhat nearer to that of property, it became customary to compound

bitants of a kingdom in the same feudal dependency. As the barons were diminished in

pound with the superior for the privilege of alienating the estate, upon payment of a sum of money. This gave rise to a perquisite, called the *fine of alienation*.

6. From the disorders which prevailed in the feudal times, when different families were so frequently at war, it was of great consequence that the vassals should not contract an alliance with the enemy of their Liege Lord; which might have a tendency to corrupt their fidelity. When fiefs therefore came to be granted for life, or to heirs, it was still held a sufficient ground of forfeiture that the vassal married without the superior's consent. This forfeiture was afterwards converted into a pecuniary penalty, called the incident of *marriage*.

7. According to the usual policy of rude nations, the feudal superior levied no taxes from his retainers, but was maintained from the rent of his own estate. In particular cases however, when his ordinary revenue was insufficient, his vassals were accustomed to supply him by a voluntary contribution. When fiefs were precarious, what was given on those occasions depended upon the will of the superior, who might even seize upon the whole estate of his tenants. But when the vassal had obtained a more permanent right, it became necessary to settle the cases when those contributions were to be made, as well as the quantity that might be demanded; and in this manner, *aid* or *benevolence* came to be enumerated among the duties payable to a superior.

number, and increased in power and opulence, they became more immediate rivals to each other. In their different quarrels, which were prosecuted with various success, the weaker party was often obliged to have recourse to the king, who alone was able to screen him from the fury of his enemy; and, in order to procure that succour and assistance which his situation required, he became willing to surrender his property, and to hold his estate upon condition of his yielding that obedience, and performing that service, which a superior was accustomed to demand from his vassals. From the various disputes which arose, and the accidental combinations that were formed among the great families, the nobles were all, in their turns, reduced to difficulties from which they were forced to extricate themselves by the like compliances; and the sovereign, who laid hold of every opportunity to extend his influence, established his superiority over the barons by the same means which they themselves had formerly employed for subjecting the proprietors of smaller estates.

THUS,

THUS, by degrees, the feudal system was completed in most of the countries of Europe. The whole of a kingdom came to be united in one great fief, of which the king was the superior, or lord paramount, having in some measure the property of all the land within his dominions. The great barons became his immediate vassals, and, according to the tenure by which they held their estates, were subject to his jurisdiction, and liable to him in services of the same nature with those which they exacted from their own retainers or inferior military tenants.

THE precise period when this revolution was finally accomplished, as in most other gradual changes which happen in a country, is involved in doubt and uncertainty. From a comparison of the opinions of different authors who have written upon this subject, and of the facts which they bring in support of their several conjectures, it appears most reasonable to conclude, that in France the great barons continued their allodial possessions during the kings of the first and second race,

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and

and about the beginning of the Capetian line were for the most part reduced into a state of feudal subjection to the monarch *.

IN

* Many of the French antiquaries and historians have believed that the feudal system was completed under their kings of the first race (See Mezeray, *hist. de France*.—Loyseau, *traité des seigneuries*.—Salvaing de l'usage des fiefs.—) Others have supposed that military tenures were unknown during this early period; and were introduced, either about the time of Charlemagne, or towards the end of the second race of kings, or about the time of Hugh Capet. (See Boulainvilliers, *lettres histor. sur les parlemens de la France*.—Mably, *observat. sur le govern. de France*.—Chantereau de Fevre, *traité des fiefs*.—Bouquet, *droit public de France*, &c.) These various opinions appear to have arisen from a different view of the facts relating to the subject; and here, as in most other disputes, the truth probably lies in a middle between the opposite extremes. To those authors who observed that, soon after the settlement of the Franks in Gaul, the king and the great lords had a considerable number of vassals dependent upon them for protection, and liable in military service, it seemed a natural inference, that the whole land in the country was held by military tenure. Those on the contrary who discovered that, under the kings of the first and second race, the great lords were in possession of allodial estates, and who observed, that, after the reign of
Hugh

IN England it would seem that, in like manner, the nobles maintained their independence during the time of the Saxon princes, and were reduced to be the vassals of the crown in the reign of William the Conqueror*.

THIS

Hugh Capet, many of the perquisites incident to the feudal tenures were established, thought they had reason from thence to conclude that the feudal system was not introduced before this period.

* From similar circumstances it has been a subject of controversy, whether the feudal system took place in England under the government of the Saxon monarchs; or whether it was not first introduced in the reign of William the Conqueror. See *Wright's Introduction to the law of tenures*, chap. 2. and the authorities quoted by him upon both sides of the question.

This author however appears to have mistaken the opinion of Spelman, whom he supposes to have maintained that feudal tenures were unknown in England before the reign of William the Conqueror. Whereas that learned antiquary, in a treatise written expressly upon the subject, goes no farther than to affirm that fiefs were not rendered hereditary before the Norman Conquest. Thus, after having stated the question, in the beginning of his treatise, he goes on as follows: "A FEUD is said to be *usufructus quidam rei immobilis sub conditione fidei*. But this definition is of too large extent for such kind of *feuds* as our question must consist upon; for it includeth two mem-

" bers

THIS opinion is confirmed by observing the changes which, from those two periods, began to take place in the government of these kingdoms. From the reign of Hugh Capet, the dominions of France appear more firmly united; they were no longer split upon the

“ bers or species greatly differing the one from the other ;
 “ the one *temporary* and *revocable* (as those at will or for
 “ years, life or lives) ; the other *hereditary* and *perpetual*.
 “ As for *temporary feuds*, which (like wild fig-trees) could
 “ yield none of the feudal fruits of *wardship*, *marriage*, *re-*
 “ *lief*, &c. unto their lords, they belong nothing unto our
 “ argument.”—And a little after he adds, “ But this
 “ kind of *feud* (we speak of) and no other, is that only
 “ whereof our law taketh notice, though time hath some-
 “ what varied it from the first institution, by drawing the
 “ property of the soil from the lord unto the tenant. And
 “ I both conceive and affirm under correction, That this
 “ our kind of feuds being perpetual and hereditary, and
 “ subject to wardship, marriage, and relief, and other feo-
 “ dal services were not in use among our Saxons, nor our
 “ law of tenures (whereon they depend) once known unto
 “ them.” (Spelman’s treat. on feuds and tenures by knight-
 service, chap. 1.) The same author, in another part of
 his treatise, proceeds to shew that, in England among the
 Saxons, the estates of the nobility were denominated *Boc-*
land, and were held in full property, but that *Folc-land*,
 or the land of the lower people, was held under condition
 of customary services, at the will of their lord the *Thane*.
Ibid. chap. 5.

death

death of the sovereign, and shared among his children; the monarch was from this period capable of acting with more vigour, and continued to extend his prerogative till the reign of Lewis XI. who exercised the power of imposing taxes, as well as of making laws independent of the convention of estates†. The same progress, though with some accidental interruptions, may be traced in England, from the Norman conquest to the accession of the Tudor family, under which the powers and prerogatives of the crown were exalted to a height that seemed equally incompatible with the rights of the nobility and the freedom of the people.

THESE institutions, by which small bodies of men are incorporated in larger societies under a single leader, and afterwards linked together in one great community, appear so suitable to the circumstances of a rude people, advancing by slow degrees in their ideas of order and policy, that we may expect to find some-

* See Boulainv. hist. ant. parl. of France.

thing of the same kind in every extensive kingdom that is formed by the association of many different tribes or families.

THE kingdom of Congo, upon the southern coast of Africa, is divided into many large districts or provinces, the inhabitants of which appear to have made some progress in agriculture. Each of these districts comprehends a multitude of small lordships, which are said to have been formerly independent, but which are now united together, and reduced under a single chief or governor, who exercises absolute authority over them. The great lords, or governors of provinces, are in like manner dependent upon the king, and owe him the payment of certain annual duties. This monarch is understood to have an unlimited power over the goods of all his subjects; he is the proprietor of all the lands in the kingdom, which return to the crown upon the death of the possessors; and, according to the arbitrary will of the prince, are either continued in the same, or bestowed upon a different family. All the inhabitants are bound to appear in the field whenever they are required by the sovereign,

sovereign, who is able in a short time to raise a prodigious army upon any sudden emergency. Every governor has a judicial power in his own district, and from his sentences there lies an appeal to the king, who is the supreme judge of the nation. Similar accounts are given of the constitution in the neighbouring kingdoms of Angola, Loango, and Benin*.

THE same form of government may be discovered in several parts of the East Indies, where many great lords, who have acquired extensive dominions, are often reduced into a sort of feudal dependence upon a single person.

AMONG the natives of Indostan, there are a great number of families who have been immemorially trained up to arms, and who enjoy a superior rank to most of the other inhabitants. They form a militia capable of enduring much hardship, and wanting nothing to

* *Histoire generale des voyages*, 4to. tom. 6. liv. 13. chap. 2, 3, 4.—*Ibid.* tom. 6. liv. 11. chap. 1. 6. § 2.—*Modern Universal History*, vol. 16. p. 81.

make good foldiers but order and difcipline. Thefe hereditary warriors are fubject to the authority of chiefs, or Rajahs, from whom they receive lands, upon condition of their performing military fervice. It would feem that thofe different families were originally independent of each other. By degrees however many of the poorer fort have become fubordinate to their opulent neighbours, and are obliged to ferve them in war in order to obtain a livelihood. In like manner the leaders of more wealthy families have been gradually fubdued by a certain Rajah, who mounted the throne, and whole influence became more and more extenfive. This in all probability gave rife to the political conftitution at prefent eftablifhed in that country. The Rajahs, or nobility, are now for the moft part retained by the Great Mogul in a fituation refembling that of the crown vaffals in Europe. At the fame time there are fome of thofe chiefs who ftill maintain an independency even in the heart of the empire. In the reign of Aureng-zebe, there were about an hundred, difperfed over the whole country; feveral of whom were capable of bringing into the field

25,000 horse, better troops than those of the monarch*.

IN the kingdom of Pegu, which was formerly an independent monarchy, the king is said to have been the sole heir of all the landed estates of his subjects. The nobility or chiefs had lands and towns assigned them, which they held of the crown, upon condition of their maintaining a certain number of troops in time of peace, and bringing them into the field in case of a war. Besides these military services, they were also bound to the performance of several kinds of work, which the sovereign rigorously exacted from them, in token of their subjection. This country is now annexed to the kingdom of Ava, in which, as well as in that of Laos and of Siam, the same regulations appear to be established†.

THE remains of this feudal polity are also to be found in Turkey. The Zaims and Ti-

* Modern Universal History, vol. 6. p. 254.

† Idem, vol. 7. p. 54. 62. 64. 127. 188. 190. 225. 263. 273.

mariots in the Turkish empire are a species of vassals, who possess landed estates upon condition of their upholding a certain number of soldiers for the service of the grand seignior*.

WHEN a great and polished nation begins to relapse into its primitive rudeness and barbarism, the dominions which belong to it are in danger of falling asunder, and the same institutions may become necessary for preventing the different parts of the kingdom from being separated, which had been formerly employed in order to unite the several members of an extensive society. This was the case among the Romans in the later periods of the empire. When the provinces became in a great measure independent, and the government was no longer able to protect them from the repeated invasions of the barbarians, the

* The Zaims have lands of greater value than the Timariots, and are obliged to maintain a greater number of soldiers. The estates of both are in some cases held during pleasure, and in others are hereditary. It was computed in the last century, that the whole militia maintained in this manner throughout the Turkish empire amounted to an hundred thousand men. See Ricault's State of the Ottoman Empire.

inhabitants were obliged to shelter themselves under the dominion of particular great men in their neighbourhood, whom the emperor put in possession of large estates, upon condition of their maintaining a proper armed force to defend the country. Thus, in different provinces, there arose a number of chiefs or leaders who enjoyed estates in land, as a consideration for the military service which they performed to the sovereign. Some authors have thence been led to imagine that the feudal policy of the German nations was copied from those regulations already established in the countries which they subdued. But this only shows, that the growth and decay of society have in some respects a resemblance to each other, which, independent of imitation, is naturally productive of similar manners and customs.

SECTION II.

The changes produced in the government of a people by their progress in civilization and refinement.

THE advancement of a people in civilization, and in the arts of life, is attended with various alterations in the state of individuals, and in the whole constitution of their government.

MANKIND, in a rude age, are commonly in readiness to go out to war, as often as their circumstances require it. From their extreme idleness, a military expedition is seldom inconvenient. From their intrepidity and their ambition to be distinguished, as well as from their desire of plunder, it is never disagreeable. The members of every clan are no less eager to follow their chief, and to revenge his quarrel, than he is desirous of their assistance. They look upon it as a privilege, rather than
a bur-

a burden, to attend upon him, and to share in the danger, as well as in the glory and profit of all his undertakings. By the numberless acts of hostility in which they are engaged, they are trained to the use of arms, and acquire experience in the military art, so far as it is then understood. Thus, without any trouble or expence, a powerful militia is constantly maintained, which, upon the slightest notice, can always be brought into the field, and employed in the defence of the country.

WHEN Cæsar made war upon the Helvetii they were able to muster against him no less than ninety-two thousand fighting men, amounting to a fourth part of all the inhabitants.

HENCE those prodigious swarms which issued, at different times, from the ill cultivated regions of the north, and over-ran the several provinces of the Roman empire. Hence too, the poor but superstitious princes of Europe were enabled to muster such numerous forces under the banner of the cross, in order to attack the opulent nations of the east, and

to deliver the holy sepulchre from the hands of the infidels.

THE same observation will, in some measure, account for those immense armies which we read of in the early periods of history ; or at least may incline us to consider the exaggerated relations of ancient authors as not entirely destitute of some real foundation.

THESE dispositions, arising from the frequent disorders incident to a rude society, are of course laid aside when good order and tranquillity begin to be established. When the government acquires so much authority as to protect individuals from oppression, and to put an end to the private wars which subsisted between different families, the people, who have no other military enterprizes but those which are carried on in the public cause of the nation, become gradually less accustomed to fighting, and their martial ardour is proportionably abated.

THE improvement of arts and manufactures, by introducing luxury, contributes yet
more

more to enervate the minds of men, who, according as they enjoy more ease and pleasure at home, are inspired with greater aversion to the hardships and dangers of a military life. The increase of industry, at the same time, creates a number of lucrative employments, which require a constant attention, and gives rise to a variety of tradesmen and artificers, who cannot afford to leave their business upon account of the transient and uncertain advantages to be derived from the pillage of their enemies *.

IN these circumstances the bulk of a people become at length unable or unwilling to serve in war, and when summoned to appear in the field, according to the ancient usage, are induced to offer a sum of money instead of their personal attendance. A composition of this kind is readily accepted by the sovereign or chief magistrate, who is thereby enabled to hire soldiers among those who have no better employment, or who have contracted a liking

* See M. de Montesquieu *Considerations sur les causes de la grandeur des Romains*, &c. chap. 3.

to that particular occupation. As the forces which he has raised in this manner receive constant pay, and have no other means of gaining a livelihood, they are entirely under the command of their leader, and are willing to remain in his service as long as he chooses to retain them. He is therefore encouraged to enter upon more difficult enterprizes, and to meditate more distant schemes of ambition. His wars, which were formerly concluded in a few weeks, are now gradually protracted to a greater length of time, and, occasioning a greater variety of operations, are productive of suitable improvements in the military art.

AFTER a numerous body of troops have been levied at considerable expence, and have been prepared for war by a long course of discipline and experience, it appears highly expedient to the sovereign that, even in time of peace, some part of them, at least, should be kept in pay, to be in readiness whenever their service is required. Thus, the introduction of mercenary forces is soon followed by that of a regular standing army. The business of a soldier becomes a distinct profession, which
is

is appropriated to a separate order of men; while the rest of the inhabitants, being devoted to their several employments, become wholly unaccustomed to arms, and the preservation of their lives and fortunes is totally devolved upon those whom they are at the charge of maintaining for that purpose.

THIS alteration, with regard to the military system, appears to have taken place in all the civilized and opulent nations of antiquity; and, for more than two centuries, has been completely established in most of the countries of Europe*.

ITS apparent tendency to increase the power and prerogative of the crown, which has been the subject of so much declamation, needs hardly be observed. As the army is immediately under the conduct of the monarch; as the individuals of which it is composed depend entirely upon him for preferment; as, by forming a separate order of men they are apt to

* See Dr. Robertson's history of Charles V. vol. 1.

become

become indifferent about the rights of their fellow-citizens; it may be expected that, in most cases, they will be disposed to pay an implicit obedience to his commands; and that the same force which is maintained to suppress insurrections, and to repel invasions, may often be employed to subvert and destroy the liberties of the people.

THE same improvements in society, which give rise to the maintenance of standing forces, are usually attended with similar changes in the manner of distributing justice. It has been already observed that, in a large community, who have made but little progress in the arts, every chief or baron is the judge over his own tribe, and the king, with the assistance of his great council, exercises a jurisdiction over the members of different tribes or baronies. From the small number of law-suits which occur in the ages of poverty and rudeness, and from the rapidity with which they are usually determined among a warlike and ignorant people, the office of a judge demands little attention, and occasions hardly any interruption to those pursuits in which a man
of

of rank and distinction is commonly engaged. But when the increase of opulence has given encouragement to a variety of tedious litigation, the sovereign and the nobility become unwilling to bestow the necessary time in hearing causes, and are therefore induced to nominate inferior judges, who acquire, by degrees, the several branches of the judicial power, and are obliged to hold regular courts for the benefit of the inhabitants. Thus the exercise of jurisdiction becomes a separate employment, and is committed to an order of men, who require a particular education to qualify them for the duties of their office, and who, in return for their service, must therefore be enabled to earn a livelihood by their profession.

THE first and most obvious method by which these magistrates endeavour to procure an indemnification for their attendance is by exacting fees from the parties who come before them. This is analagous to what happens with respect to every sort of manufacture in which an artificer is commonly paid by those who employ him. We find accordingly .
that

that this was the former practice in all the feudal courts of Europe; and in all probability it hath also been adopted in most parts of the world by nations in the same period of their advancement. The inconveniency however of such a regulation, which tends to influence the decisions of a judge, to render him active in stirring up law-suits, and in multiplying the forms of his procedure, in order to increase his perquisites; these pernicious consequences with which it is inseparably connected could not fail to attract the notice of a polished people, and at length produced the more perfect plan of providing for the maintenance of judges by the appointment of a fixed salary in place of their former precarious emoluments.

It cannot be doubted that these establishments, of such mighty importance, and of so extensive a nature, must be the source of great expence to the public. In those early periods, when the inhabitants of a country are in a condition to defend themselves, and when their internal disputes are decided by judges who claim no reward for their interpositions, few

few regulations are necessary with respect to the public revenue. The king is enabled to maintain his family, and to support his dignity by the rents of his own estate; and, in ordinary cases, he has no farther demand. But when the disuse of the ancient militia has been succeeded by the practice of hiring troops, these original funds are no longer sufficient, and other resources must be provided in order to supply the deficiency. By the happy disposition of human events, the very same circumstance that occasions this difficulty appears also to suggest the means of removing it. When the bulk of a people become unwilling to serve in war, they are naturally disposed to offer a composition in order to be excused from personal service. These compositions are levied at first, in consequence of an agreement with each individual: to avoid the trouble arising from a multiplicity of separate transactions, they are afterwards paid in common by the inhabitants of particular districts, and at length give rise to a general assessment, the first considerable taxation that is commonly introduced into a country.

If this tax could always be laid upon the people in proportion to their circumstances, it might easily be augmented in such a manner as to defray all the expences of government. But the difficulty of ascertaining the wealth of individuals makes it impossible to push the assessment to a great height, without being guilty of oppression, and renders it proper that other methods of raising money should be employed to answer the increasing demands of the society. In return for the protection which is given to merchants in carrying their goods from one country to another, it is apprehended that some recompence is due to the government; and that certain duties may be levied upon the exportation and importation of commodities. The security enjoyed by tradesmen and manufacturers, from the care and vigilance of the magistrate, is held also to lay a foundation for similar exactions upon the retail of goods and upon the inland trade of a nation. Thus the payment of customs, and of excise, is introduced and gradually extended.

It is not proposed to enter into a comparison of these different taxes, or to consider the advantages and disadvantages of each. Their general effects in altering the political constitution of a state are more immediately the object of the present enquiry. As the sovereign claims a principal share, at least, in the nomination of public officers, as he commonly obtains the chief direction in collecting and disposing of the revenue which is raised upon their account, he is enabled thereby to give subsistence to a great number of persons, who in times of faction and disorder will naturally adhere to his party, and whose interest, in ordinary cases, will be employed to support and to extend his authority. These circumstances contribute to strengthen the hands of the monarch, to undermine and destroy every opposite power, and to increase the general bias towards the absolute dominion of a single person.

In another view, the influence of commerce and manufactures appears favourable to liberty, and conducive to a popular form of government.

IN

IN those periods when men are unacquainted with manufactures, and are maintained from the simple productions of the earth, the lower people have seldom an opportunity of raising themselves to superior stations. They are under a necessity of becoming servants to their opulent neighbours, by whom they are employed, according to their qualifications, in military service, or in the several branches of husbandry. In this situation they are incapable of acquiring an affluent fortune; but, remaining for ages in a state of dependence, they naturally contract such dispositions and habits as are suited to their circumstances. They acquire a sacred veneration for the person of their master, and are taught to pay an unbounded submission to his authority. They are proud of that servile obedience by which they seem to exalt his dignity, and consider it as their duty to sacrifice their lives and their possessions in order to promote his interest, or even to gratify his capricious humour.

BUT when the arts begin to be cultivated in a country, the labouring part of the inhabitants are enabled to procure subsistence in a
different

different manner. They are led to make proficiency in particular trades and professions; and, instead of becoming servants to any body, they often find it more profitable to work at their own charges, and to vend the product of their labour. As in this situation their gain depends upon a variety of customers, they have little to fear from the displeasure of any single person; and, according to the good quality and cheapness of the commodity which they have to dispose of, they may commonly be assured of success in their business.

THE farther a nation advances in opulence and refinement, it has occasion to employ a greater number of merchants, of tradesmen and artificers; and as the lower people, in general, become thereby more independent in their circumstances, they begin to exert those sentiments of liberty which are natural to the mind of man, and which necessity alone is able to subdue. In proportion as they have less need of the favour and patronage of the great, they are at less pains to procure it; and their application is more uniformly directed to acquire those talents which are useful in the ex-

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ercise

ercise of their employments. The impressions which they received in their former state of servitude are therefore gradually obliterated, and give place to habits of a different nature. The long attention and perseverance, by which they become expert and skilful in their business, render them ignorant of those decors and of that politeness which arises from the intercourse of society; and that vanity which was formerly discovered in magnifying the power of a chief, is now equally displayed in fullen indifference, or in contemptuous and insolent behaviour to persons of superior rank and station.

AT the same time that a great proportion of the people are raised to independence, a number of individuals have an opportunity of acquiring very ample fortunes; while, on the other hand, many of the old families are, from the same circumstances, reduced to poverty and indigence. From the ideas of luxury, introduced by commerce and manufactures, the ancient simplicity of manners is in a great measure destroyed; and those who are born to great affluence, and who have been bred to

to no business, are excited, with mutual emulation, to surpass one another in the elegance and refinement of their living. According as they have the means of indulging themselves in pleasure, they become more addicted to the pursuit of it, and are sunk into a degree of indolence and dissipation which renders them incapable of any active employment. Thus the expence of the landed gentleman is apt to be continually increasing, without any proportional addition to his income. His estate therefore, being more and more encumbered with debts, is at length alienated, and brought into the possession of the frugal and industrious merchant, whose posterity, in a generation or two, are again led to squander it away, with a heedless extravagance equal to the parsimony and activity by which the former possessor was enabled to acquire it.

THIS fluctuation of property, so observable in all commercial countries, and which no prohibitions are capable of preventing, must necessarily weaken the authority of those who are placed in the higher ranks of life. Persons who have lately attained to riches, have no opportunity

of establishing that train of dependence which is maintained by those who have remained for ages at the head of a great estate. The hereditary influence of family is therefore diminished. Money becomes more and more the only means of procuring honours and dignities; and the sordid pursuits of avarice are made subservient to the nobler purposes of ambition. As no one order of men continues in the exclusive possession of opulence, as every man who is industrious may entertain the hope of gaining a fortune, it is to be expected that the prerogatives of the monarch and of the ancient nobility will be gradually undermined, that the privileges of the people will be extended in the same proportion, and that power, the usual attendant of wealth, will be in some measure diffused over all the members of the community.

So widely different are the effects of opulence and refinement, which, at the same time that they furnish the king with a standing army, the great engine of tyranny and oppression, have also a tendency to inspire the people with notions of liberty and independence.

ence. It may thence be expected that a conflict will arise between these two opposite bodies, in which a variety of accidents may contribute to cast the balance upon either side.

WE may observe, in general, that in a small state the people have on those occasions been commonly successful in their efforts to establish a free constitution. When a state consists only of a small territory, and the bulk of the inhabitants live in one city, they have frequently occasion to converse together, and to communicate their sentiments upon every subject of importance. Their attention therefore is roused by every instance of oppression in the government; and as they easily take the alarm, so they are capable of quickly uniting their forces in order to demand redress of their grievances. By repeated experiments they become sensible of their strength, and are enabled by degrees to enlarge their privileges, and to assume a greater share of the public administration.

MOST of the ancient republics, with which we are acquainted, appear to have owed their liberty to this particular circumstance. From the narrowness of their dominions, and the close intercourse among all the individuals of the same community, they imbibed a spirit of freedom even before they had made considerable progress in arts; and they found means to repress or abolish the power of their petty princes, before their effeminacy or industry had introduced the practice of maintaining mercenary troops.

THE same observation is applicable to the modern states of Italy, who, after the decay of the western empire, began to flourish in trade, and among whom a republican form of government, though after a different model, was early established.

IN large and extensive nations it may, on the other hand, be imagined, that the struggles between the sovereign and his people will more commonly terminate in favour of despotism. In a wide country, the encroachments of the government are frequently overlooked;

looked; and, even when the indignation of the people has been roused by flagrant injustice, they find it difficult to combine in uniform and vigorous measures for the defence of their rights. It is also difficult, in a great nation, to bring out the militia with that quickness which is requisite in case of a sudden invasion; and it becomes necessary, even before the country has been much civilized, to maintain such a body of mercenaries as is capable of supporting the regal authority.

THUS in France, in Spain, and in most of the great kingdoms of Europe, the ancient power of the monarch has been farther confirmed and extended by the progress of civilization, and the advancement of arts and manufactures.

THE fortunate situation of Britain, after the accession of James I. gave her little to fear from any foreign invasion, and superseded the necessity of maintaining a considerable standing army, when the service of the feudal militia had gone into disuse. The weakness, and perhaps the upright intentions of her mo-

narchs, at that period, prevented them from employing the only expedient capable of supporting their pretensions to absolute power. Charles I. when at the point of an open rupture with his parliament, was possessed of no military force upon which he could depend, and was therefore obliged to yield to the growing power of the commons*. The repeated

* See Mr. Hume's history of England.

Many writers appear to take pleasure in remarking, that as the love of liberty is natural to man, it is to be found in the greatest perfection among barbarians, and is apt to be impaired according as a people make progress in civilization and in the arts of life. That, in proportion as mankind approach nearer to the state of savages, they are less acquainted with government, and less accustomed to any sort of constraint, is sufficiently evident; but it does not hence follow that they put a higher value upon this freedom, or will be more ready to exert themselves in defending it. There are many other objects of greater consequence than liberty, and which are preferred to it by all the world. A man whose situation continually exposes him to be pinched with hunger or shivering with cold, is surely much more anxious to remove those evils, than to maintain his independence. The first aim of every person is to gratify those appetites which are essential to his subsistence; and until these gratifications are procured, the desire of every other is in a great measure excluded. As people

peated efforts that were made by the people in defence of their privileges cherished and spread the love of liberty; and producing the most popular government that ever was esta-

people have obtained more of the ordinary comforts of life, and become easy in their circumstances, their taste is gradually refined; they are rendered more delicate in their pleasures, and the privilege of choosing among their different enjoyments comes to be a species of luxury, which constitutes a great part of their happiness.

The Indians of America indeed have sometimes made vigorous efforts to oppose the encroachments of the Europeans; but these were in defence of their life, not of their liberty; for the preservation of their hunting grounds is absolutely necessary to supply them with food and cloathing. The ancient Germans, whose high notions of freedom have been the subject of many a well-turned period, were accustomed to stake their persons, and to yield up themselves to a voluntary servitude, upon the issue of a game of hazard. And it is certain that in all tribes of shepherds or husbandmen, fidelity and submission to the chief is the principal point of honour, and makes a distinguishing part of their character. It seems reasonable to conclude that wherever the bulk of a people live in most affluence from their own industry, and in procuring their livelihood have least occasion to court the favour of their superiors, their ideas of liberty will be most universally diffused; and it cannot be disputed that an English waggoner has more of an independent spirit than is to be found among persons of low rank in the highlands of Scotland.

blished in a country of the same extent, have at length settled the disposal of the public revenue, and modelled the standing army, in such a manner as to remove all just ground of terror from the effects of the one, or the operations of the other.

CHAP.

C H A P. V.

Of the authority of a master over his servants.

SECTION I.

The condition of servants in the primitive ages of the world.

IN the foregoing chapters we have surveyed the principal distinctions of rank which occur among the free inhabitants of a country, and have endeavoured to mark the progress of society, with regard to the power of the husband, the father, and the civil magistrate. It may now be proper to consider the state of the servants, and to observe the degrees of authority which the laws and customs of different nations have bestowed upon the master.

FROM the situation of mankind in rude and barbarous countries, we may easily conceive in what manner any one person is, at first, reduced

duced to be the servant of another. Before the manners of men are civilized, and a regular government has been established, persons of small fortune are subject to great inconveniencies from the disorder and violence of the times, and are frequently obliged to solicit the assistance and protection of some powerful neighbour, by whom they are entertained in the station of vassals or military dependents. But those who from their idleness have acquired nothing, or who by accident have been deprived of their possessions, are necessarily exposed to much more severe calamities. They have no room or encouragement for the exercise of those beneficial trades and professions, the effects of luxury and refinement, by which, in a polished nation, a multitude of people are enabled to live in a comfortable manner. In many cases, therefore, they are under the necessity of serving some opulent person, who, upon account of their labour, is willing to maintain them; and as they are entirely dependent upon him for their subsistence, they are engaged, according to his circumstances, and according to the qualifications they

they possess, in all the mean and servile occupations which may be requisite for the convenience and support of his family.

IN early ages, when neighbouring tribes or nations are almost continually engaged in mutual hostilities, it frequently happens that one of the parties is totally reduced under the power of another. The use that is made of a victory, upon these occasions, is such as might be expected from a fierce and barbarous people, who have too little experience or reflection to discover the utility of carrying on the trade of war with some degree of humanity. The vanquished are often put to death, in order to gratify a spirit of revenge; or, if they are spared, it is only from the consideration that their future labour and service will be of more advantage to the conqueror. As in those times every individual goes out to battle at his own charges, so he claims a proportional share of the profits arising from the expedition; and of consequence obtains the absolute disposal of the captives whom he hath subdued by his valour, or who, in a division of the booty,
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are bestowed upon him as the reward of his merit *.

By these two methods, by captivity, or by the voluntary submission of the indigent, many are reduced into a state of unlimited subjection, and become the servants of those who are opulent and prosperous. It may be questioned, in such a case, how far a person is intitled to make use of that power which fortune has put into his hands. It is difficult to ascertain the degree of authority which, from the principles of justice and humanity, we are, in any situation, permitted to assume over

* This ancient acquisition of servants by *captivity* gave rise, in subsequent periods, to another method of acquiring them, by the *sentence of a judge*. In the most rude state of society, the public was not invested with sufficient power to punish the crimes that were committed; and when a difference arose between individuals, the injured party had frequently no other way of procuring redress than by making war upon the offender, and reducing him into captivity. In more civilized ages, when the magistrate was enabled to restrain these disorders, he sometimes afforded the same redress by his own authority, and assigned the labour and service of the criminal as an indemnification to the sufferer for the loss he had sustained.

our

our fellow-creatures. But the fact admits of no question, that people have commonly been disposed to use their power in such a manner as appears most conducive to their interest, and most agreeable to their predominant passions. It is natural to suppose that the master would set no bounds to his prerogative over those unhappy persons who, from their circumstances, were under the necessity of yielding an implicit obedience to his commands. He forced them to labour as much, and gave them as little in return for it as possible. When he found them negligent of their employment, he bestowed upon them such correction as he thought proper; and, actuated by the boisterous dispositions of a savage, he was in some cases provoked to chastise them with a degree of severity, by which they might even be deprived of their life. When he had no use for their work, or when a good opportunity was presented, he endeavoured by a sale to dispose of them to the highest advantage. When he chose to increase the number of his servants, he sometimes encouraged and directed their multiplication; and the same authority which he exercised over the parents

was

was extended to their offspring, whom he had been at the trouble of rearing, and who were equally dependent upon him for their subsistence.

To be a servant, therefore, in those primitive times, was almost universally the same thing as to be a slave. The master assumed an unlimited jurisdiction over his servants, and the privilege of selling them at pleasure. He gave them no wages beside their maintenance; and he allowed them to have no property, but claimed to his own use whatever, by their labour or by any other means, they happened to acquire.

THUS the practice of domestic slavery appears to have been early established among the nations of antiquity; among the Egyptians, the Phœnicians, the Jews, the Babylonians, the Persians, the Greeks, and the Romans.

THE same practice obtains at present among all those tribes of barbarians, in different parts
of

of the world, with which we have any correspondence.

THERE are indeed but few slaves among the greater part of the savages of America ; because, from the situation of that people, they have no opportunity of accumulating wealth for maintaining any number of servants. As, in ordinary cases, they find it burthensome to give subsistence to an enemy whom they have subdued, they are accustomed to indulge their natural ferocity by putting him to death, even in cold blood. If ever they behave with humanity to their captives, it is only when being greatly reduced by the calamities of war, or by uncommon accidents, they are under the immediate necessity of recruiting their strength ; and as this rarely happens, the persons whose lives have been thus preserved, are not distinguished from the children of the family into which they are brought, but are formally adopted into the place of the deceased relations, whose loss they are intended to supply *.

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* These captives are worse treated by some of the American nations than by others ; but in fact they are always

THE Tartars, on the other hand, who have great possessions in herds and flocks, find no difficulty in supporting a number of domestics. For this reason they commonly preserve their captives, with a view of reaping the benefit that may arise from their labour; and the servitude established among that people disposes them to treat their enemies with a degree of moderation which otherwise could hardly be expected from their fierce and barbarous dispositions †.

THE same observation may be extended to the negroes upon the coast of Guinea, who, from their intercourse with the nations of Europe, derive yet greater advantages from sparing the lives of their enemies. At the same time it cannot be doubted, that, as the encounters of those barbarians have upon this account become less bloody, their wars have

retained in the condition of slaves. See Lafitau, *Mœurs de Sauvages Américains*, 4to. tom. 2. p. 308.

† See the accounts which are given of the conquests made by Genghizkhan. *Histoire générale des voyages*, tom. 9. liv. 3. chap. 3. § 11.

been

been rendered more frequent. From the great demand for slaves to supply the European market, they have the same motives to seize the person of their neighbours, which may excite the inhabitants of other countries to rob one another of their property*.

* Histoire generale des voyages, tom. 4, 5, 6.

SECTION II.

The usual effects of opulence and civilization with regard to the treatment of servants.

THESE institutions and customs are such as might be expected from the limited experience, as well as from the rude manners, of an early age. By reducing his servants into a state of slavery, the master appears at first sight to reap the highest advantage from their future labour and service. But when a people become civilized, and when they have made considerable progress in commerce and manufactures, one would imagine they should entertain more liberal views, and be influenced by more extensive considerations of utility.

A SLAVE, who receives no wages in return for his labour, can never be supposed to exert much vigour or activity in the exercise of any employment. He obtains a livelihood at any rate, and by his utmost assiduity he is able to procure no more. As he works merely in
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consequence of the terror in which he is held, it may be imagined that he will be idle as often as he can with impunity. This circumstance may easily be overlooked in a country where the inhabitants are strangers to improvement. But when the arts begin to flourish, when the wonderful effects of industry and skill in cheapening commodities, and in bringing them to perfection, become more and more conspicuous, it must be evident that little profit can be drawn from the labour of a slave, who has neither been encouraged to acquire that dexterity, nor those habits of application, which are essentially requisite in the finer and more difficult branches of manufacture.

THIS may be illustrated from the price of labour in our West-India islands, where it will not be doubted that the inhabitants are at great pains to prevent the idleness of their slaves. In Jamaica the yearly labour of a field-negro, when he is upheld to the master, is rated at no more than nine pounds, currency of that island. When a negroe has been instructed in the trade of a carpenter, the value of his yearly labour will amount at the utmost

to thirty-six pounds, whereas a free man is capable of earning seventy pounds yearly in the very same employment.

It is further to be observed, that, in a polished nation, the acquisition of slaves is commonly much more expensive than among a simple and barbarous people.

AFTER the establishment of a regular government, the inhabitants of a country are restrained from plundering one another; and, under the authority of the magistrate, individuals of the lowest rank are sufficiently secured from oppression and injustice. In proportion to the improvement of commerce and manufactures the demand for labour is increased, and greater encouragement is given to industry. The poor have more resources for procuring a livelihood, and find a greater variety of employments are capable of supporting them, without their submitting to the absolute dominion of their superiors. By degrees, therefore, people of inferior condition are freed from the necessity of becoming slaves in order to obtain subsistence; and the
ancient

ancient agreement by which a free person resigned his liberty, and was reduced under the power of another, being rendered more and more unusual, is at length regarded as inconsistent with the natural rights of a citizen*.

As mankind experience the happy effects of cultivating the arts of peace, and are less frequently employed in acts of hostility, they have less occasion to acquire any number of slaves by captivity. The influence of civilization upon the temper and dispositions of a people has at the same time a tendency to produce a total revolution in the manner of conducting their military operations. The ancient institution, that every one who is able to bear arms should appear in the field at his own

* Thus, among the Romans during the commonwealth, no free citizen was allowed, by a contract, to become the slave of another. See Hein. Ant. Rom. lib. 1. tit. 5. § 6. This regulation, however, was established with the exception, where a man fraudulently suffered himself to be sold in order to share in the price; in which case he became the slave of the person whom he had defrauded of his money. L. 3. Dig. quib. ad libert. proclam. non licet.

charges, is considered as too heavy a burden upon those who are enervated with pleasure, or engaged in lucrative professions; and the custom of employing mercenary troops in defence of the country is therefore gradually established. As an army of this kind is maintained by the government, as the soldiers receive constant pay, which is understood to be a full equivalent for their service, they appear to have no title to the extraordinary emoluments arising from the spoil of the enemy. Thus the captives, though reduced into servitude, are no longer held as belonging to those particular persons by whom they have been subdued, but to the public, at whose expence and hazard the war is supported *.

THE

* It is accordingly held, in the later Roman law, that a soldier is entitled to no part of the plunder acquired in war, unless from the special donation of the emperor. L. 20. § 1. Dig. de capt. et postl. l. 36. § 1. c. de donat.

We may take notice of a similar change in the acquisition of slaves by the sentence of a judge. In rude times, the chief aim of punishment was to gratify the resentment of the private party; and if a person accused of a crime was found guilty, he was, for that reason, frequently delivered

THE inhabitants of a civilized country are therefore obliged to acquire the bulk of their slaves by a purchase from their poorer and more barbarous neighbours, or by propagating and rearing from the original stock which they possess. And in computing the price of the labour which is performed by those who live in a state of servitude, not only the charge of their maintenance, but also the expence of their first acquisition, together with all the hazard to which their life is exposed, must necessarily be taken into the account.

WHEN these circumstances are duly considered, it will be found that the work of a slave, who receives nothing but a bare subsistence, is really dearer than that of a free

livered up as a slave to the plaintiff. But upon greater improvement of manners, the interpositions of the magistrate came to be influenced more by considerations of general utility; and as the crimes of individuals were principally considered in the light of offences against the society, it was agreeable to this idea that a criminal should become the slave of the public, and should either be employed in public works, or disposed of in the manner most advantageous to the revenue of the community.

man,

man, to whom constant wages are given in proportion to his industry.

UNHAPPILY, men have been seldom in a condition to examine this point with proper attention. The practice of slavery being introduced in an early age, is afterwards regarded with that blind prepossession which is commonly acquired in favour of ancient usages. The inconveniencies of it are overlooked, and every innovation is considered as a dangerous measure. The possession of power is too agreeable to be easily relinquished. Few people will venture upon a new experiment; and, amidst the general prejudices of a country, fewer still are capable of making it with fairness. We find, accordingly, that this institution, however inconsistent with the right of humanity, however pernicious and contrary to the true interest of the master, has generally remained in those countries where it was once established, and has been handed down from one generation to another, during all the successive improvements of society in knowledge, arts, and manufactures.

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THE advancement of a nation, in these particulars, is even frequently attended with greater severity in the treatment of the slaves. The simplicity of early ages admits of little distinction between the master and his servants, in their employments or manner of living; and though he may sometimes subject them to hardships, from the impetuosity and violence of his temper, he enjoys no great superiority over them in their dress, their lodging, or ordinary entertainment. By the introduction of wealth and luxury, this equality is gradually destroyed. The various refinements which tend to multiply the comforts and conveniences of life, whatever contributes to ease, to pleasure, to ostentation, or to amusement, is in a great measure appropriated to the rich and the free, while those who remain in a state of servitude are retained in their primitive indigence. The slaves are no longer accustomed to sit at the same table with their master. They must look upon him as a being of a superior order, whom they are seldom permitted to approach, and with whom they have hardly any thing in common; who beholds with indifference the toil and drudgery
to

to which they are subjected, and from whom they can with difficulty procure a narrow and scanty subsistence *.

WHAT a painful and humbling comparison, what mortifying reflections does this afford to those wretches who are reduced into a state of bondage! reflections which cannot fail to sour their temper, to inspire them with malevolent dispositions, and to produce an untoward and stubborn behaviour. A more severe discipline is thus rendered necessary, in order to conquer their obstinacy, and oblige them to labour in their employments. Besides, from the number of slaves which are usually maintained in a wealthy and luxurious nation, they become formidable to the state; and it is requisite that they should be strictly watched, and kept in the utmost subjection, in order to prevent those desperate attempts to which they

* “ Ipse dominus dives operis, et laboris expers,

“ Quodcunque homini accidit libère, posse retur;

“ Æquom esse putat: non reputat laboris quid sit:

“ Nec, æquom ane iniquom imperet, cogitabit.”

Plaut. Amphitr,

are

are frequently instigated in revenge of their sufferings. This is at least the pretence for that shocking barbarity to which the negroes in our colonies are so commonly exposed, and which is so often exhibited even by persons of the weaker sex, in an age distinguished by its humanity and politeness.

THE prodigious wealth acquired by the Romans towards the end of the commonwealth, and after the establishment of despotism, gave rise to a degree of cruelty and oppression, in the management of their slaves, which had been unknown in former times *.

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- * —“ Hic frangit ferulas, rubet ille flagellis,
 “ Hic scutica : sunt quæ tortoribus annua præstant.
 “ Verberat, atque obiter faciem linit, audit amicas,
 “ Aut latum pictæ vestis confiderat aurum,
 “ Et cædit, donec lassis cædentibus, exi
 “ Intonet horrendum, jam cognitione peracta :
 “ Præfectura domus ficola non mitior aula.”

Juven. Sat. 6.

Vedius Pollio, a Roman citizen, is said to have fed the fishes in his fish-ponds with the flesh of his own slaves. Donat. ad Terentii Phorm. act. 2. scen. 1.

With regard to the treatment of the Roman slaves, see Mr. Hume's learned essay on the populousness of ancient nations.

It

It was to be expected, however, that particular enormities of this kind would at length excite the attention of the public, and would be in some measure restrained by the gradual progress of government. Although the institution of slavery was permitted to remain, it was thought that the master ought to be prevented from committing such wanton abuses of his power as were altogether prejudicial to his interest, and could only be regarded as an absurd abuse of his property.

By the Jewish law, regulations for this purpose were introduced at an early period.

“ IF a man smite his servant, or his maid,
“ with a rod, and he die under his hand, he
“ shall surely be punished.

“ NOTWITHSTANDING, if he continue a day
“ or two, he shall not be punished : for he is
“ his money.

“ And if a man smite the eye of his servant,
“ or the eye of his maid, that it perish ; he
“ shall let him go free for his eye's sake.

“ AND

"AND if he smite out his man-servant's tooth, or his maid-servant's tooth; he shall let him go free for his tooth's sake *."

AT Athens, the slaves who had been barbarously treated by their master were allowed to fly for sanctuary to the temple of Theseus, and to commence a suit at law against their master, who, if their complaint appeared well founded, was laid under the necessity of selling them †.

VARIOUS equitable laws, upon this subject, were made by the Roman emperors. At Rome, the absolute power of the master was first subjected to limitation in the reign of Augustus, who appointed that the "Præfectus urbi" should afford redress to such of

* Exodus, chap. xxi. ver. 20, 21. 26, 27. It has been a question whether the last quoted laws, in ver. 26 and 27, related to the slaves acquired from foreign nations, or only to such of the Israelites as had been reduced into a state of servitude. Grotius is of the latter opinion. Vide Grot. com. ad cit. cap.

† See Potter's antiquities of Greece, book 1. chap. 10.

the slaves as had been treated with immoderate severity. In the reign of the emperor Claudius, it was enacted, that if a master abandoned the care of his slaves during their sickness, he should forfeit the property of them; and that if he put them to death, he should be held as guilty of homicide. Soon after, the practice of delivering the slaves to fight with wild beasts, for the amusement of the people, was in some measure restrained. Other statutes were afterwards made, in the reigns of Adrian, of Antoninus Pius, and of Constantine, by which it was finally established, that the master who killed his own slave, by design, and not from the accidental excess of chastisement, should suffer the ordinary punishment of murder*.

* Vide Hein. antiq. Rom. lib. 1. tit. 8.

SECTION III.

Causes of the freedom acquired by the labouring people in the modern nations of Europe.

BY what happy concurrence of events has the practice of slavery been so generally abolished in Europe? By what powerful motives were our forefathers induced to deviate from the maxims of other nations, and to abandon a custom so generally retained in other parts of the world?

THE northern barbarians, who laid the foundation of the present European states, are said to have possessed a number of slaves, which were obtained either by captivity or by voluntary submission, and over which the master enjoyed an unlimited authority*.

WHEN

* The following account is given by Tacitus, concerning the state of the slaves among the ancient Germans; "Aleam," says he, speaking of that people, "solvii inter
§ "seria

WHEN these nations invaded the Roman empire, and settled in the different provinces, they were enabled by their repeated victories to procure an immense number of captives, whom they reduced into servitude, and by whose assistance they occupied landed estates of proportionable extent. From the manners which prevail universally among rude people, their domestic business was usually performed by the members of each family; and their

“feria exercent, tanta lucrandi perdenique temeritate ut
 “cum omnia defecerunt, extremo ac novissimo jactu, de
 “libertate, et de corpore contendant. Victus volunta-
 “rium servitutem adit. Quamvis junior, quamvis ro-
 “bustior, alligare se ac venire patitur; ea est in re prava
 “pervicacia: ipsi fidem vocant, servos conditionis hujus
 “per commercia tradunt, ut se quoque pudore victoriæ
 “exsolva.

“Ceteris servis, non in nostrum morem descriptis per
 “familiam ministeriis, utuntur. Suam quisque sedem,
 “suos penates regit. Fumenti modum dominus, ut co-
 “lono injungit: et servus hætenus paret. Cetera domus
 “officia, uxor ac liberi exsequuntur. Verberare servum,
 “ac vinculis et opere coercere rarum. Occidere solent,
 “non disciplina et severitate, sed impetu et ira, ut ini-
 “micum, nisi quod impune.” Tacit. de mor. Germ.
 § 24, 25.

slaves,

slaves, being under the absolute dominion of the master, were occupied in the various branches of husbandry which he had occasion to exercise *. As the numerous servants belonging to a single person could not be conveniently maintained in his house, so the nature of their employment required that they should be sent to a distance, and have a fixed

* It appears that, by the settlement of the German nations in the Roman provinces, no immediate change was produced in the state of their slaves. I. The master exercised an unlimited power of chastising them, and might even put them to death with impunity. Potgiesserus de statu servorum, lib. 2. cap. 1.—II. They were liable to be alienated, or impledged by the master at pleasure. Ibid. cap. 3, 4, 5.—III. They were incapable of marrying, or of entering into any other contract, without his consent. Ibid. cap. 10. § 3.—IV. They were considered as the property of the master, who might claim them from every possessor, by the ordinary action which was given for the recovery of his goods. Ibid. lib. 2. cap. 9.—V. They were held incapable of having any property of their own; and whatever was acquired by their labour belonged to the master, from whom they usually received nothing but subsistence. Ibid. lib. 2. cap. 10. § 7, 8.—VI. The slaves, considered in a public capacity, enjoyed none of the rights of a citizen, and were seldom permitted to give evidence against a free man in a court of justice. Ibid. lib. 3. cap. 1. 3.

residence upon those parts of his estate which they were obliged to cultivate. Separate habitations were therefore assigned them; and particular farms were committed to the care of different individuals, who frequently residing in the neighbourhood of one another, and forming small villages or hamlets, received the appellation of "villani, villains," or villagers.

It is natural to suppose that, in such a situation, the condition of this order of men would in a short time be considerably improved. It was impossible that the proprietor should oversee the behaviour of his servants, living in separate families, and scattered over the wide extent of his demesnes; and it was in vain to think of compelling them to labour by endeavouring to chastise them upon account of their idleness. A very little experience would show that no efforts of that kind could be effectual; and that the only means of exciting the industry of the peasants would be to offer them a reward for the work which they performed. Thus, besides the ordinary maintenance allotted to the slaves, they frequently obtained

obtained a small gratuity, which, by custom, was gradually converted into a regular hire; and, being allowed the enjoyment and disposal of this subject, they were at length understood to be capable of having separate property.

AFTER the master came to reside at a distance from the bulk of his servants, and had embraced the salutary policy of bribing them, instead of using compulsion, in order to render them active in their employments, he was less apt to be provoked by their negligence; and having seldom occasion to treat them with severity, the ancient dominion which he exercised over their lives was at length entirely lost by disuse.

WHEN a slave had been for a long time engaged in a particular farm, and had become acquainted with that particular culture which it required, he was so much the better qualified to continue in the management of it for the future; and it was contrary to the interest of the master that he should be removed to another place, or employed in labour of a

different kind. By degrees therefore the peasants were regarded as belonging to the stock upon the ground, and came to be uniformly disposed of as a part of the estate which they had been accustomed to cultivate *.

THE effects of these circumstances is even observable in the history of the Greeks and Romans, among whom the peasants were raised to a better condition than the rest of their slaves. They were indeed bound to

* As these changes were gradual, it is difficult to ascertain the precise period at which they were completed. In the twelfth century, it would seem that the master's power over the life of his slaves was in a great measure lost. Potgiesserus de statu serv. lib. 2. cap. 1. § 24. This author observes also, that about this period the chastisement of slaves had become more mild than formerly. Of this he mentions the following proof.

“ Quæ tamen coercitio aliquando eo modo emollita fuit,
 “ ut servi non nisi fustibus crassitiem et latitudinem unius
 “ veru adæquantibus coercerentur, ficuli in codice mem-
 “ branaceo Werdinensi vetusto me observasse reminiscor.”
 Ibid.

It would appear likewise, that about the same period the slaves, at least in some parts of Germany, were allowed to acquire separate property. Ibid. l. 2. cap. 10. § 12.

serve

serve their master during life, and they might have been sold along with the ground upon which they were employed : but their persons were not subject to the absolute jurisdiction of their master ; they had the privilege of marrying without his consent, they received wages in return for their labour, and were understood to have a full right of property in the goods which they were enabled to accumulate *.

It would seem, however, that the limited territory possessed by these ancient nations prevented the farther extension of the privileges bestowed upon their peasants : seven acres were originally the utmost extent of landed property which a Roman citizen was permitted to enjoy ; a portion which he was able to cultivate with his own hands, or with no other assistance but that of his own family ; and there is reason to believe that, for several centuries, no individual acquired such an

* Vide Hein. antiq. Rom. lib. 1. tit. 3. § 8.—l. un. cod. de colon. Thrac. l. 21. cod. de agric. et censit. novell. 162. cap. 3.

estate as gave occasion to his retaining many servants for the management of it, or could render the inspection and government of them a matter of great trouble or difficulty *.

BUT after the wide and populous countries under the Roman dominion were subdued and laid waste by the small tribes of the Germans, very extensive landed estates, together with an adequate number of slaves, were immediately acquired by particular persons. As the people retained their primitive simplicity of manners, and were in a great measure strangers to commerce, these large possessions remained for ages without being dismembered. And thus, during all the successive improvements of agriculture, the proprietor of an estate, embarrassed with the multitude of his villains, was obliged to repose a confidence in them, and came by degrees to discover more clearly the utility of exciting

* See Essay on the populousness of ancient nations, by Mr. Hume.

them

them to industry by the prospect of their own private advantage.

THE same motives, by which the master was induced to reward his slaves for their labour, determined him afterwards to increase his bounty in proportion to the work which they performed. Having no opportunity of looking narrowly into their management, he was commonly led to estimate their diligence according to their success; and therefore, when they brought him a good crop, he made an addition to their wages, at the same time that he allowed them to expect a suitable compensation for their future labour and economy. This at length gave rise to an express stipulation, that their profits should depend upon the increase of their respective farms; and that, in all cases, they should be permitted to retain a certain share of the produce, in consideration of their labour *.

AN expedient so obvious and well calculated for promoting the industry of the peasants,

* See the Historical Law-tracts—History of Covenants.
could

could hardly fail to be generally embraced in all the countries of Europe, as soon as the inhabitants became attentive to the improvement of their estates. The remains of this practice are still to be found in Scotland, where, in some cases, the landlord is accustomed to stock the farm, and the tenant pays him a rent in kind, consisting of a certain proportion of the fruits *.

By this alteration, the villains entered into a sort of copartnership with their master; and having always a prospect of gain, according to the vigour or talents which they exerted, they were enabled to earn a more comfortable subsistence, and were even gradually raised to affluence. The acquisition of wealth paved the way to a farther extension of their privileges. Those who had obtained something considerable found themselves in a con-

* The stock which is delivered by the master to his tenant goes under the name of "steel-bow goods" in the law of Scotland. At the end of the lease the tenant is bound to restore the same in quantity and quality to the master.

dition

dition to stock their own farms, and to offer a fixed rent to the master, upon condition of their being allowed to retain the surplus for their own emolument. An agreement of this kind, so advantageous to both the parties, was concluded without any difficulty. As the tenant secured to himself the whole profit arising from his industry, the landlord was freed from the hazard of accidental losses, and obtained not only a certain, but frequently an additional revenue from his lands.

THUS, by degrees, the ancient villanage came to be entirely abolished. The peasants, who cultivated their farms at their own charges, and at their own hazard, were of course emancipated from the authority of their master, and could no longer be regarded as in the condition of servants. Their personal subjection was at an end. It was of no consequence to the landlord how they conducted themselves; and, provided they punctually paid his rent, nothing farther could be required of them. There was no reason to insist that they should remain in the farm longer than they pleased; for the profits it afforded made
 them,

them, commonly, not more willing to leave it than the proprietor to put them away. When agriculture became so beneficial a trade, when the state of those who followed that profession was so much improved, no person had any difficulty to procure a sufficient number of tenants to labour his estate. It was, on the contrary, sometimes difficult for the farmer to obtain land sufficient for the exercise of his employment; and, after he had been at pains to improve the soil, he was in danger of being dispossessed by the proprietor, before he was indemnified for the trouble and expence which he had sustained. This made it necessary to stipulate that he should be allowed to remain for a certain time in the possession, and gave rise to leases, for a term of years, and even sometimes for life, or for a longer period, according to the circumstances or inclination of the parties.

THE modern nations of Europe continued for a long time to be almost entirely unacquainted with manufactures; and, as they had no other slaves but those which were employed in agriculture, the privileges acquired
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by the villains had therefore a tendency to produce a total extinction of servitude. By degrees, however, as the people began to improve their circumstances, and to multiply the comforts and conveniencies of life, their attention was more and more diverted to other employments. At the same time that the villains were engaged in cultivating the ground, they were also bound to perform any other services which the master thought proper to require, and were often called to assist him in the practice of those mechanical arts which were then understood. Particular persons acquiring a singular dexterity in these occupations, were distinguished upon that account, and came to be more frequently employed than their neighbours. In proportion to the liberty which they enjoyed as peasants, they were enabled with more advantage to prosecute this collateral business; and while they received a reward for the crop which they produced upon their farms, they were not restrained from working, for hire, in that peculiar trade or profession which they were qualified to exercise. As the progress of luxury and refinement multiplied these occupations,

pations, and rendered the profits which they afforded superior in many cases to those which were derived from agriculture, individuals were gradually led to quit the latter employment, and to draw their subsistence entirely from the former. In this manner a number of tradesmen and artificers arose in different villages, and were advanced to consideration and esteem, in proportion as their assistance became more essentially necessary in supplying the wants of mankind. According to the wealth which they had accumulated, they purchased immunities from their master; and, by permitting him to levy tolls and duties upon their commerce, they were enabled to secure his patronage and protection. Thus the situation of the husbandmen appears to have given rise to domestic freedom, which was communicated to the trading part of the inhabitants, while the employment of the latter became, on the other hand, the source of great opulence, and contributed, as hath been formerly remarked, to raise the people of inferior rank to political independence.

OTHER

OTHER causes have been assigned for this remarkable change of European manners. The establishment of Christianity has been supposed by many to be the principal circumstance which rooted out the practice of slavery, so universally permitted and encouraged among all the heathen nations. There is no doubt that the spirit of this religion, which considers all mankind as children of the same Father, and as all equally the objects of his paternal care and affection, should inspire them with compassion for the miseries of each other, and should teach the opulent and the proud to consider those who are depressed with labour and penury as creatures of the same species, to treat them with mildness and humanity, and to soften the rigours to which their severe and unequal fortune has unavoidably subjected them. But it does not seem to have been the intention of Christianity to abolish the distinctions of rank, or to alter the civil rights of mankind which were already established. There is no precept of the gospel by which the authority of the master is in any respect restrained or limited; but, on the contrary, there are several passages from which it may

be inferred that the slaves, even after they embraced the Christian religion, were not absolved from any part of the duties formerly incumbent upon them *.

ACCORDINGLY, we find that slavery remained all over Europe for several centuries after Christianity became the established religion: not to mention that this institution is still retained in Russia, in Poland, in Hungary, and in several parts of Germany; and that it is at present admitted, without limitation, in the colonies which belong to any of the European nations, whether in Asia, Africa, or America.

* Thus Onesimus, notwithstanding his conversion to Christianity, is understood by the apostle Paul to continue still the slave of Philemon; and it is not supposed that the master, who was also a Christian, was under an obligation to relinquish any part of his authority, far less to give liberty to his servant. See St. Paul's epistle to Philemon. See also, to the same purpose, Rom. chap. xiii. ver. 1, &c.—Ephes. chap. vi. ver. 5.—Coloss. chap. iii. ver. 22.—1 Tim. chap. vi. ver. 1, 2.—Tit. chap. ii. ver. 9, 10.—1 Pet. chap. ii. ver. 18.—1 Corinth. chap. vii. ver. 21, 22.

It hath likewise been imagined that the state of the clergy, their great influence and ambition, together with that opposition between the civil and ecclesiastical powers, which subsisted for a long time in most of the nations of Europe, were favourable to the lower ranks of men, and contributed to limit and destroy the ancient practice of villanage. The learning, the ideas of policy, and, above all, the peaceable manners of ecclesiastics, naturally produced an aversion to the disorders incident to the feudal governments, and disposed them to shelter the weak and defenceless from the tyranny of their superiors. In those dark and superstitious ages, the church was most successful in establishing her authority over the lowest and most ignorant of the people, and was therefore led, in a particular manner, to exert her power and abilities in protecting that order of men by which she was most firmly supported. As dying persons were frequently inclined to make considerable donations for pious uses, it was more immediately for the interest of churchmen, that people of inferior condition should be rendered capable of acquiring property, and should have the free

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disposal of what they had obtained. From these motives it appears, that the clergy recommended the manumission of slaves to persons under their direction, and that the censures of the church came to be, in some cases, inflicted upon the master who refused to allow his villains the liberty of alienating their effects by a testament *. But it is scarce conceivable that, from such interested views, the clergy would be excited to strike at the root of servitude, and to employ their casuistry in overthrowing an institution upon which so great a part of their own property depended. While they appeared so extremely liberal with regard to the estates of the laity, it is far from being improbable that they held a different conduct with relation to the villains in their own possession; and we meet with many ecclesiastical regulations, both in France and Germany, by which it is established that no bishop, or priest, should manumit a slave in the patrimony of

* Potgiesserus de stat. serv. lib. 2. cap. 10. § 12.—
Ibid. cap. 11. § 2.

the church, without purchasing two others of equal value to be put in his place†.

† See the different decrees of councils brought in proof of this by Potgiesserus de stat. serv. lib. 4. cap. 2. § 4, 5.

In one of these it is enacted, “Episcopus liberos
“ex familiis ecclesiæ, ad condemnationem suam facere
“non præsumat. Impium enim est, ut qui res suas eccle-
“siæ Christi non contulit, damnum inferat, et ejus eccle-
“siæ rem alienare contendat. Tales igitur libertos suc-
“cessor episcopus revocabit, quia eos non æquitas, sed
“improbitas absolvit.”

In another it is said, “Mancia monachis donata ab
“abbate non liceat manumitti. Injustum est enim, ut
“monachis quotidianum rurale opus facientibus, servi
“eorum libertatis otio potiantur.”

It is likely, however, that the clergy treated their slaves with greater lenity than was usual among the rest of the people. Mention is made of a bishop of Arles, who never allowed above thirty-nine stripes to be given, at one time, to any of his servants.—“Solebat sanctus vir id accurate
“observare, ut nemo ex istis qui ipsi parebant, sive illi
“servi essent, sive ingenui, si pro culpa flagellandi essent,
“amplius trigiata novem ictibus ferirentur. Si quis vero
“in gravi culpa deprehensus esset, permittebat quidem ut
“post paucos dies iterum vapularet, sed paucis.” Cipria-
nus in vita S. Cæsarii Cit. Potgiess. lib. 2. cap. 1. § 6.

THE state of the civil government, in most of the countries of Europe, may be regarded as another circumstance to which the people of inferior condition have been indebted for their liberty. From the aristocratical constitution established in these kingdoms, the sovereign was engaged in long and violent struggles with his barons; and being often incapable of carrying his measures by direct force, he was obliged to employ every artifice that his situation would admit, in order to humble his rivals, and reduce them under subjection. For this purpose he frequently exerted his authority in protecting the villains from the tyranny of the master; and thus endeavoured to undermine the power of the nobles, by withdrawing the submission of their immediate dependents.

At the same time it must be owned, that while the monarch endeavoured to extend the privileges of the slaves possessed by the barons, he generally set an example in this respect to his subjects, and, by the enfranchisement of the villains upon the royal demesnes, he led the way to a similar practice upon the
lands

lands belonging to the nobility. It may thence be inferred that the interpositions of the civil power in favour of liberty were directed by general considerations of utility, more than by the private view of depressing any particular part of the inhabitants. It was natural to expect that a wise prince, who had experienced the good effects of giving liberty to his peasants, would be desirous of making such regulations as might encourage the other proprietors of land to act in the same manner, and might diffuse those beneficial measures over the whole of his dominions *.

It may further be remarked, that in some countries, where we meet with no statutes restraining the practice of slavery, it has notwithstanding gone into disuse, from the natural improvement of the inhabitants, and is as completely extinguished as in other countries, where the alteration was effected by a special interposition of the public †.

* See the historical account of the ancient parliaments of France, by the Count de Boulainvilliers. Let. 4, 5.

† This is particularly the case in England. As there is no English statute bestowing liberty upon the villains,

THE remains of servitude which are still to be found in the case of coaliers and salters in Scotland, and of those who work in the mines in some other parts of Europe, are sufficient to point out the chief circumstance, from which, in all other cases, the ancient institution has been so generally abolished. In a coal-work, as the different workmen are collected in one place, instead of being scattered, like the ordinary peasants, over an extensive territory, they were capable of being put under the care of an overseer, who might compel them to labour; and the master did not so immediately feel the necessity of re-

it seems very difficult to determine the period when this alteration was produced. So late as the reign of Queen Elizabeth, bondmen were still to be found in many different parts of the kingdom. See Observations on the statutes, chiefly the more ancient, 1 Rich. II. A. D. 1377.

In Scotland it appears, in like manner, that the practice of villanage has generally gone into disuse without any interposition of the legislature; for the acts of parliament abolishing what is called "man-rent," relate to a different subject. Parl. 1457. c. 77. parl. 1555. c. 43.

signing

signing that authority over them with which he was invested *.

AFTER domestic liberty had been thus, in a great measure, established in those European nations which had made the greatest improvement in agriculture, America was discovered; the first settlers of which, from their distance, and from the little attention that was paid to them by the government of their mother countries, were under no necessity of conforming to the laws and customs of Europe. The acquisition of gold and silver was the great object by which the Spaniards were directed in the settlements which they made upon that continent; and the native inhabitants, whom they had conquered, were reduced into slavery and put to work in the mines. But, being either exhausted by the severity with which they were treated, or not being thought sufficiently robust for that kind of labour, negroe-

* The right of the master, with regard to the labour of coaliers and salters, is secured by statute, parl. 1606.

slaves were afterwards purchased for this purpose from the Portuguese settlements on the coast of Africa. When sugar-plantations were erected, the same people were employed in these, and in most other kinds of work which came to be performed in that part of the world. Thus the practice of slavery was no sooner extinguished by the inhabitants in one quarter of the globe, than it was revived by the very same people in another, where it has remained ever since, without being much regarded by the public, or exciting any effectual regulations in order to suppress it*.

It merits particular attention, that the chief circumstance which contributed to procure freedom to the slaves in Europe, had no place in our American plantations. From the manner of working the mines, a number of slaves are usually collected together, and may therefore be placed under the command of a single

* See Anderson's history of commerce, vol. 1. p. 336.—
The first importation of negroe-slaves into Hispaniola was
in the year 1508. Ibid.

person, who has it in his power to superintend their behaviour, and to punish their negligence. The same observation is applicable to the planting of sugar, and to the other occupations in our colonies, in which the negroes perform the same sort of work which in Europe is commonly performed by cattle, and in which, of consequence, many servants are kept upon the same plantation. As the slaves are continually under the lash of their master, he has not been forced to use the disagreeable expedient of rewarding their labour, and of improving their condition by those means which were found so necessary, and which were employed with so much emolument, to encourage the industry of the peasants in Europe.

SECTION IV.

Political consequences of slavery.

IN the history of mankind, there is no revolution of greater importance to the happiness of society than this which we have now had occasion to contemplate. The laws and customs of the modern European nations have carried the advantages of liberty to a height which was never known in any other age or country. In the ancient states, so much celebrated upon account of their free government, the bulk of their mechanics and labouring people were denied the common privileges of men, and treated upon the footing of inferior animals. In proportion to the opulence and refinement of those nations, the number of their slaves was encreased, and the grievances to which they were subjected became the more intolerable. At Athens the slaves are said to have exceeded the free citizens, nearly

nearly as twenty to one *. In the most flourishing periods of Rome, when luxury was carried to so amazing a pitch, the proportion of the inhabitants reduced into servitude was in all probability still greater †. It may therefore be affirmed, that in the most despotic European government, in which domestic slavery is abolished, more freedom is really enjoyed by the people, than in any of the admired republics established by the most

* According to an enumeration which is said to have been made by Demetrius Phalereus, there were in Athens 21,000 citizens, 10,000 strangers, and 400,000 slaves. Athenæus, lib. 6. cap. 20.—Under the administration of Pericles, the citizens of Athens were not so numerous. Plutarch's life of Pericles.—At the same time, this disproportion between the free citizens and slaves has appeared incredible to some authors, who therefore imagine that the number of slaves was only 40,000. From Mr. Hume's acute observations on this subject, it is probable that the account of the slaves in Athenæus is exaggerated; but the precise reduction to 40,000 seems to be without any sufficient reason.

† The number of slaves possessed by particular Roman citizens was prodigious. T. Minucius, a Roman knight, is said to have had 400. Seneca de tranquillit. cap. 8.—Pliny mentions one Cæcilius, who bequeathed in his testament upwards of 4000 slaves. Lib. 33. cap. 10.—And Athenæus takes notice, that the slaves belonging to particular Roman citizens amounted to 30,000. Lib. 6, cap. 20.
refined

refined and public-spirited nations of antiquity.

IN whatever light we regard the institution of slavery, it appears equally inconvenient and pernicious. No conclusion seems more certain than this, that men will commonly exert more activity when they work for their own benefit, than when they are compelled to labour for the benefit merely of another. The introduction of personal liberty has therefore an infallible tendency to render the inhabitants of a country more industrious; and, by producing greater plenty of provisions, must necessarily encrease the populousness, as well as the strength and security of a nation.

SOME persons have imagined that slavery is conducive to population, on account of the frugality with which the slaves are usually maintained, and on account of the attention which is given by the master to their multiplication.

WITH regard to the former circumstance, it ought to be considered, that the work of a labourer

labourer depends very much upon the subsistence which he receives. As by living in too great affluence he may occasion an useless consumption of provisions, so by obtaining too little he is rendered less fit for the exercise of those employments by which mankind are supported. To promote the populousness of a country, the mechanics and labouring people should be maintained in such a manner as will yield the highest profit from the work which they are capable of performing; and it is probable that they will more commonly be subsisted according to this due medium, when they provide their own maintenance, than when it depends upon the arbitrary will of a master, who, from narrow and partial views, imagines that he has an interest to diminish the expence of their living as much as possible. To those who have occasion to know the extreme parsimony with which the negroe-slaves in our colonies are usually maintained, any illustration of this remark will appear superfluous.

WITH respect to the care of the master to encourage the multiplication of his slaves, it must

must be obvious that this is of little moment, unless it be accompanied with an encrease of the means of their subsistence. If slavery be always unfavourable to industry, and tend to hinder the improvement of a country, the number of inhabitants will be proportionably limited, in spite of all the regulations that can be made, and of all the encouragement that can be given to the propagation of the species. It is impossible even to multiply cattle beyond a certain extent, without having previously enriched the pastures upon which they are fed.

BUT slavery is not more hurtful to the industry than to the good morals of a people. To cast a man out from the privileges of society, and to mark his condition with infamy, is to deprive him of the most powerful incitements to virtue; and, very often, to render him worthy of that contempt with which he is treated. What effects, on the other hand, may we expect that this debasement of the servants will produce on the temper and disposition of the master? In how many different ways is it possible to abuse that absolute power

with which he is invested? And what vicious habits may be contracted by a train of such abuses, unrestrained by the laws, and palliated by the influence of example. It would seem that nothing could exceed the dishonesty and profligacy of the Roman slaves, unless we except the inhumanity and the extravagant vices which prevailed among the rest of the inhabitants *.

* Various statutes were accordingly made to restrain the manumission of slaves, and to prevent the dignity of a Roman citizen from being communicated to such infamous persons. The following account is given of the foundation for these laws by Dionysius of Halicarnassus: "Such is the confusion of our times, so much has the Roman probity degenerated into shameful meanness, that some having gathered money by robberies, prostitutions, and all kinds of wickedness, are enabled to procure their freedom and to become Roman citizens. Others associating with their masters, in poisonings, murders, and crimes committed both against the gods and the commonwealth, are rewarded in the same manner. Some are manumitted upon this account, that the public corn, or the bounty of the emperor, may be withheld from those indigent citizens for whom it is intended." Dion. Hal. Antiq. Rom.

It has been alledged that, in one respect, the institution of slavery is beneficial to a nation, as it affords the most convenient provision for those who are become unable to maintain themselves. The maintenance of the poor is doubtless a very important object, and may be regarded as one of the most difficult branches in the police of a country. In the early periods of society, when family-attachments are widely extended, the rich are commonly willing to take care of their indigent relations; and from the dispositions of a people unacquainted with luxury, those persons who have no other resource may expect relief from the occasional charity of their neighbours. But in a commercial and populous nation, in which the bulk of the people must work hard for their livelihood, many individuals are, by a variety of accidents, reduced to indigence; while at the same time, from their numbers, as well as from the prevailing spirit of the age, their misery is little regarded by their fellow creatures. The cunning impostor, in such a case, may sometimes carry on a profitable trade of begging; but the real object of distress is apt to be overlooked, and without
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some interposition of the public, would often perish from want. Poors-rates therefore, in some shape or other, must be established; and from the nature of such an establishment, it is usually attended with much expence, and liable to many abuses. In a country where slavery is practised, no such inconvenience is felt. As the master may be obliged, in all cases, to maintain his slaves, no assessment is necessary, no charges are incurred in collecting and distributing money, for the benefit of the poor: not to mention, that the nuisance of common begging is thus effectually removed.

It must be owned that this is a frugal regulation; but that it will answer the purpose is far from being so evident. When the same person, who is subjected to a tax, is also entrusted with the application of the money, what security is there that he will ever apply it to the uses for which it is intended? When a master is ordered to support his slaves, after they have become unfit for labour, what measures can be taken to prevent his disobedience? As it is plainly his interest to get free

of this burden, what reason have we to expect that he will submit to it longer than he thinks fit? In a matter of domestic œconomy, how is it possible for the public to watch over his conduct, or to observe one of a thousand instances in which he may neglect his decayed servants, or withhold from them the common necessities of life? Instead of maintaining the poor therefore, this is only a method of starving them in the most expeditious, and perhaps, in the most private manner. In perusing the Roman history, with relation to this subject, we meet with enormities which fill the mind with horror. Among that people it appears that, notwithstanding all the laws that were made by emperors, of the best intentions and possessed of absolute power, the master did not even think it necessary to conceal his barbarity, or to show more regard to his slaves, than is usually shown to cattle which, from age or diseases, are no longer of service to the owner.

CONSIDERING the many advantages which a country derives from the freedom of the labouring people, it is matter of regret that
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any species of slavery should still remain in the dominions of Great Britain, in which liberty is generally so well understood, and so highly valued.

THE situation of the coaliers and falters in Scotland may seem of little consequence, as the number of persons engaged in that employment is not very great, and their servitude is not very grievous. The detriment, however, which arises from thence to the proprietors of those works is manifest. No man would chuse to be a slave if he could earn nearly the same wages by living in a state of freedom. Each coalier therefore must have an additional premium for his labour, upon account of the bondage into which he is reduced: otherwise he will endeavour to procure a livelihood by some other kind of employment*.

MANY

* The following facts, with regard to the comparative price of the labour of coaliers in Scotland and England, and of that of coaliers in comparison with other labourers, in both countries, have been communicated to the author by a gentleman of great knowledge and observation.

MANY of the coal-masters begin to be sensible of this, and wish that their workmen were upon a different footing ; although, with

In Scotland, a coalier labouring eight hours in twenty-four, earns, exclusive of all expence, twelve shillings per week, or two shillings per day. More particularly,

In the County of Mid-Lothian, at an average, about thirteen shillings.

In the county of Fife, about twelve shillings.

In the counties of Linlithgow and Stirling, thirteen shillings.

In the county of Ayr, thirteen shillings and upwards.

It is to be observed, however, that this is not what every coalier actually earns, but what every coalier who works his regular task gets ; and this exclusive of bearers.

The labourers in the lead-mines at Lead-hills, Wanloch-head, &c. in Scotland, working eight hours in twenty-four, earn eight shillings per week.

At Newcastle the coaliers earn nine shillings per week.

Common labour at Newcastle is at six shillings per week.—In the county of Mid-Lothian in Scotland five shillings per week.—In the county of Fife four shillings.—In the counties of Linlithgow and Stirling five shillings.—In the county of Ayr from five shillings and sixpence to six shillings.—At Lead-hills, Wanloch-head, &c. six shillings.

a timidity

a timidity natural to those who have a great pecuniary interest at stake, they are averse from altering the former practice, until such alteration shall be rendered universal by an act of parliament. But whatever advantages might accrue to them from a general law abolishing the slavery of the coaliers, it seems evident that these advantages would be reaped in a much higher degree by any single proprietor who should have the resolution to give liberty to his workmen, and renounce the privileges which the law bestows upon him, with respect to those who might afterwards engage in his service. If the slavery of the coaliers tends to heighten their wages, surely any one master who should be freed from this inconvenience before the rest, would be in the same circumstances with a manufacturer who produces a commodity at less expence than his neighbours, and who is thereby enabled to undersell them in the market.

THE slavery established in our colonies is an object of greater importance, and is attended with difficulties which cannot be so easily removed. It has been thought, that the
management

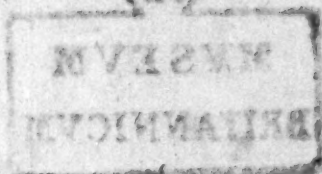
management of our plantations requires a labour in which free men would not be willing to engage, and which the white people are, from their constitution, incapable of performing. How far this opinion is well founded, according to the present manner of labouring in that part of the world, seems difficult to determine, as it has never been properly examined by those who are in a condition to ascertain the facts in question. But there is ground to believe that the institution of slavery is the chief circumstance that has prevented those contrivances to shorten and facilitate the more laborious employments of the people, which take place in other countries where freedom has been introduced*.

WITH

* Considering the connection between our colonies and the mother-country, it is very surprising that instruments proper for different kinds of work should be so much wanted in many parts of the West Indies. In Jamaica the digging of a grave gives full employment to two men for a whole day; as from the want of proper tools they are obliged to make a large hole no way adapted to the human figure. I am informed, that, unless it has been procured very lately, there is hardly a spade in the whole island. The use of the saw is also very little known. Instead of
a flail

WITH regard to the planting of sugar, experiments have been made, in some of the islands, from which it appears that, in this species of cultivation, cattle might be employed with advantage, and that the number of slaves might be greatly diminished. But these experiments have been little regarded, in opposition to the former usage, and in opposition to a lucrative branch of trade which this innovation would in a great measure destroy. At any rate, the interest of our colonies seems to demand that the negroes should be better treated, and even that they should be raised to a better condition. The author of a late elegant account of our American settlements has proposed, that small wages should be given them

a flail the negroes make use of a single stick in threshing the Guinea-corn, so that in this and in winnowing, ten women are capable of doing no more work in a day, than, with our instruments and machinery, two men would perform in two hours. They are unacquainted either with the scythe or the sickle, and are obliged every night to cut with a knife, or pull with their hands, a quantity of grass sufficient to serve their horses, mules, and black cattle. These observations were made about the year 1765, and relate more immediately to the parishes of Vere, Hanover, and St. Thomas.



them as an encouragement to industry. If this measure were once begun, it is probable that the master would soon find the utility of pushing it to a greater extent. Nothing can appear more astonishing than the little attention that has hitherto been paid to any improvements of this nature, after the good effects of them have been so fully illustrated in the case of the villains in Europe. At the same time it affords a curious spectacle to observe, that the same people who talk in so high a strain of political liberty, and who consider the privilege of imposing their own taxes as one of the unalienable rights of mankind, should make no scruple of reducing a great proportion of the inhabitants into circumstances by which they are not only deprived of property, but almost of every right whatsoever. Fortune perhaps never produced a situation more calculated to ridicule a grave, and even a liberal hypothesis, or to show how little the conduct of men is at the bottom directed by any philosophical principles.

F I N I S.



